4/10

THE JOURNAL OF

LIBERTARIAN STUDIES

AN INTERDISCIPLINARY REVIEW

IMMIGRATION SYMPOSIUM

Julian L. Simon
Are There Grounds for Limiting Immigration?

John Hospers
A Libertarian Argument Against Open Borders

Walter Block
A Libertarian Case for Free Immigration

Jesús Huerta de Soto
A Libertarian Theory of Free Immigration

Tibor R. Machan
Immigration Into A Free Society

Gary North
The Sanctuary Society and its Enemies

Hans-Hermann Hoppe
The Case for Free Trade and Restricted Immigration

Volume 13, Number 2, Summer 1998

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Murray N. Rothbard (1926–1995)
Founding Editor

EDITORS
Hans-Hermann Hoppe
Department of Economics
University of Nevada, Las Vegas

Walter Block
Department of Economics
University of Central Arkansas

David Gordon
Los Angeles, California

Joseph Salerno
Department of Economics
Pace University

MANAGING EDITOR
Scott A. Kjar
Auburn University

EDITORIAL BOARD
Dominick Armentano
Department of Economics
University of Hartford

Randy E. Barnett
School of Law
Boston University

Yale Brozen
Graduate School of Business
University of Chicago

Arthur A. Ekirch, Jr.
Department of History
State University of New York, Albany

Antony Flew
Department of Philosophy
University of Reading, England

John N. Gray
Jesus College
Oxford University

John Hagel III
San Francisco, California

Jean-Pierre Hamilius
Luxembourg

Ronald Hamowy
Department of History
University of Alberta

Steve H. Hanke
Department of Political Economy
Johns Hopkins University

F.A. Hayek †
Nobel Laureate in Economics
University of Freiburg

John Hospers
Department of Philosophy
University of Southern California

M. Bruce Johnson
Department of Economics
University of California, Santa Barbara

Leonard P. Liggio
Atlas Foundation

William Marina
Department of History
Florida Atlantic University

James J. Martin
Colorado Springs, Colorado

Robert A. Nisbet †
American Enterprise Institute
Washington, D.C.

Gerald P. O'Driscoll
Citicorp
Washington, D.C.

Ellen Frankel Paul
Social Philosophy and Policy Center
Bowling Green State University

Jeffrey Paul
Social Philosophy and Policy Center
Bowling Green State University

Joseph R. Peden †
Department of History
Baruch College
City University of New York

Ralph Raico
Department of History
State University College, Buffalo

Douglass B. Rasmussen
Department of Philosophy
St. John's University

Mario J. Rizzo
Department of Economics
New York University

Llewellyn H. Rockwell
Ludwig von Mises Institute
Auburn University

James J. Sadowsky, S.J.
Department of Philosophy
Fordham University

Sudha R. Shenoy
Department of Economics
University of Newcastle

Louis Spadaro
Department of Economics
Fordham University

Joseph R. Stromberg
Fort Myers, Florida

Thomas S. Szasz, M.D.
State University of New York
Health Science Center, Syracuse

Leland B. Yeager
Department of Economics
Auburn University

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE JOURNAL OF

LIBERTARIAN STUDIES

AN INTERDISCIPLINARY REVIEW

Volume 13, Number 2, Summer 1998

IMMIGRATION SYMPOSIUM

Ralph Raico
Introduction 135

Julian Simon
Are There Grounds for Limiting Immigration? 137

John Hospers
A Libertarian Argument Against Open Borders.....153

Walter Block
A Libertarian Case for Free Immigration.....167

Jesus Huerta de Soto
A Libertarian Theory of Free Immigration 187

Tibor Machan
Immigration Into A Free Society 199

Gary North
The Sanctuary Society and its Enemies.....205

Hans-Hermann Hoppe
The Case for Free Trade and Restricted Immigration 221

THE JOURNAL OF LIBERTARIAN STUDIES is published semi-annually by the Center for Libertarian Studies, a non-profit, privately-supported institute dedicated to research and scholarship and the ideal of a free society. Annual subscription rates are $40 for institutions, $30 for individuals, and $20 for students. Canada and Mexico subscribers please add postage as follows: $4 for surface delivery, $6 for air mail. All other subscribers please add $10 (U.S. dollars only, please—Visa and Mastercard accepted). Address inquiries to THE JOURNAL OF LIBERTARIAN STUDIES, P.O. Box 4091, Burlingame, California, USA 94011, Telephone (415) 692-8456 or (800) 325-7257. Copyright © 1998 by the Center for Libertarian Studies, ISSN 0363-2873.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE JOURNAL OF LIBERTARIAN STUDIES is abstracted and indexed in *Historical Abstracts, America: History and Life, Political Science Abstracts, The Philosopher's Index,* and *International Political Science Abstracts.*

Information for authors. THE JOURNAL publishes both solicited and unsolicited manuscripts. Authors submitting manuscripts should provide four clear copies, including abstracts of not more than 250 words to assist the referees. The manuscript should be double-spaced. Please type on only one side of the page, using adequate margins. If possible, also provide the manuscript on disk, preferably in Word Perfect or Microsoft Word, either on IBM or Macintosh formats. Authors should enclosed a stamped, self-addressed envelope if the return of the manuscript is requested. All manuscripts and correspondence should be addressed to: Editors, JOURNAL OF LIBERTARIAN STUDIES, P.O. Box 4091, Burlingame, CA 94011 U.S.A. Telephone (415) 692-8456 or (800) 325-7257.

Articles should not exceed 12,000 words. Footnotes should be used, rather than endnotes or in-text references, and must include complete bibliographical information. Footnotes should be consecutively numbered. Notes must be according to the style used in the *Chicago Manual of Style* (University of Chicago Press) or authors must resubmit them in correct form if the accepted manuscript is to be published.

THE JOURNAL edits articles for clarity, brevity, and in accordance with the *Chicago Manual of Style.* After editing, authors will receive page proofs for proofreading purposes only.

Authors should include information on their titles and professional affiliations, along with mailing address, telephone number, and e-mail address. Authors should also indicate if the manuscript is to be published elsewhere or presented at a conference.

Subscription Information. See preceding page.

Back Issue Information. Back issues are available for sale at $15 per copy (not all issues may be available). Allow four weeks for delivery. Payment must be made in U.S. dollars.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

INTRODUCTION

Ralph Raico, Guest Editor*

The question of immigration has become acute in virtually all Western nations, including the United States. Here, as elsewhere, leaders of movements to limit immigration, especially from the "Third World," often combine this with uninformed attacks on the free market, particularly on international free trade. But there is no necessary connection between battling to curb immigration and rejecting such key elements of the free market as free trade. This is shown, for instance, by Peter Brimelow, who is at the same time a gifted advocate of private property and the market economy, and is the author of *Alien Nation: Common Sense About America's Immigration Disaster.*

Some libertarians automatically assume that there is no use arguing the subject. "Open borders," they believe, is unconditionally mandated by free-market principles. Occasionally they go so far as to suggest that any opposition to unrestricted entry must be motivated by "racism." They would do well to ponder the reply of Milton Friedman when asked in an interview how the *Wall Street Journal* could support fixed exchange rates. The Nobel Laureate in economics replied:

> You got me! My God, how the hell can they stick with that? They've just got an *idée fixe* about it. Like they've got on immigration. It's just obvious that you can't have free immigration and a welfare state.[1]

Thus, it appears that the immigration question is more complicated than some suppose.

In order to advance the debate, the *Journal of Libertarian Studies* invited contributions from a number of distinguished libertarian and libertarian-leaning scholars with varying points of view. Among them was Julian Simon, a thinker respected on all sides. No one contributed more to bringing the issue of immigration to the public's notice than did he, through his characteristically vigorous books and articles. The world of free-market scholarship and advocacy suffered a great loss with his sudden passing.

---

*Ralph Raico is professor of history at Buffalo State College, senior fellow of the Ludwig von Mises Institute, and the translator of Mises's *Liberalism.* He was editor of *New Individualist Review,* and senior editor of *Inquiry* magazine. His *Classical Liberalism: Historical Essays in Political Economy* is forthcoming from Routledge.

[1]*Forbes* (December 29, 1997).

Journal of Libertarian Studies 13:2 (Summer 1998): 135–136

©1998 Center for Libertarian Studies
LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Professor Simon and the other contributors to this symposium raise questions that demand the attention of all who value the survival and flourishing of a free society. What does a "pure libertarian theory of immigration" imply? How is such a theory to be applied in the current political and social circumstances? In the case of the United States, is massive immigration conducive or perhaps even necessary to a prosperous and highly innovative economy? What qualifications of libertarian theory, if any, result from the system of racial and ethnic privilege that is today enshrined in law and actively promoted by the federal bureaucracy and judiciary? Even aside from the prevailing regime of privilege, civil rights laws prohibit Americans from "discriminating" against anyone on the basis of race, ethnicity, etc., in housing, employment, and many other areas of life. Should this fact be addressed in formulating libertarian answers to the problem? Would the increasing "balkanization" of American society be fostered by "free immigration," or is this even a factor that libertarians should take into account? And what of the point raised by Professor Friedman—the continued existence, for the foreseeable future, of a vast welfare state that, like civil rights laws and racial preferences, was not present in earlier phases of large-scale immigration?

Finally, there is the general problem of democratic electoral politics, which places the lives, liberties, and property of all Americans at the disposal of whoever is able to control the political process. Would unlimited immigration work to further the erosion of individual rights as traditionally understood in the United States? Or are consequences of this kind too problematical to be considered by libertarian theory?

The editors of the *Journal of Libertarian Studies* hope that this symposium will help readers understand just how significant this subject is. This is no mere debate over more or fewer farm subsidies, or tariffs, or welfare programs. Even massive immigration, let alone "open borders," will affect, for good or evil, the fundamental character of America and all of the Western world.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ARE THERE GROUNDS FOR LIMITING IMMIGRATION?

Julian L. Simon*

Is there any "good" reason for a country such as the U.S. to deny entrance to persons who wish to immigrate, but who are not desired as immigrants by some or most of the current citizens?[1] My argument will assume without further justification that an individual has a right to life, liberty, and property in the traditional Anglo-Saxon sense of freedom from coercion by the state or other persons (unless a criminal act has been committed).[2]

Let us take note of the fact that the present international system is made up of area power monopolies referred to as *countries* (or sometimes ambiguously as *nations*), and any decisions made by a particular country hinge upon that fact. The question at hand does not encompass asking whether a world system without countries is better than a world system with countries. Rather, it takes as given a system of sovereign nations, practically all of which regulate issues of immigration and emigration with respect to their own borders. The question at hand concerns how the United States or a similar nation *ought* to behave about immigration, given that fact, and given the assumptions above. Or, to put it differently, what is *sensible* and *moral* for a nation to do with its power of regulating immigration, consistent with the rights of individuals stated above.

To most persons, the question at hand is likely to seem almost frivolous. To most of the people with whom I have discussed the matter, it seems obvious that there *must* be sound grounds for a

---

*Julian L. Simon (1932–1998) was professor of business and management at the University of Maryland at College Park. He was the most respected and prolific expositor of the benefits of large-scale immigration to the United States. Among his numerous books are *Resampling: The New Statistics* and the classic *The Ultimate Resource* (i.e., human beings under conditions of freedom).

For helpful comments on this topic, I am grateful to Frank Buckley, Ed Crane, Greg Lindsay, Ellen Frankel Paul, Burt Schorr, David Simon, Michael Simon, Alex Singer, and Daniel Singer.

[1]The word "good" is written in quotation marks because various sorts of reasons—economic, moral, legal, ethical—might be offered as justifications for regulating immigration. I do not wish, by using an adjective referring to economics or morality or political philosophy or any other domain, to limit myself in advance the kinds of reasons that might be so offered by myself or by others.

[2]Those who espouse legal traditions different from the Anglo-Saxon tradition as now exemplified by the United States and Great Britain are not likely to accept this set of assumptions. I do not wish to join in argument with them about immigration on this occasion.

Journal of Libertarian Studies 13:2 (Summer 1998): 137–152
©1998 Center for Libertarian Studies
LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

nation to regulate immigration; for many, the matter need go no further than taking notice of the fact that all nations do, in fact, exercise that power. But others challenge the morality of erecting barriers against the entrance of aliens into the United States or another country. Their argument is that if one believes in a "great society" in which all people are treated equally, there is no logical reason to treat a person differently who stands on one side or another of a boundary line, that is, who holds one "citizenship" rather than another. And they point to the period of virtually open borders in the United States—up to the 1920s—as evidence that such a policy need not be disastrous, or even more costly than beneficial. They also point out that only 75 years ago, it was considered uncivilized in the "advanced" countries for a government to restrict people's comings and goings across their borders for reasons other than health or pauperism.[3]

A Crucial Intellectual Difficulty: Who Has A Claim?

As with many other questions that seem too preposterous to warrant serious discussion, this one makes for hard going. It may help to begin by identifying an intellectual difficulty in the economics of immigration, and indeed, throughout the economics of population size. Economic discussion customarily starts by assuming a fixed number of possible claimants to whatever resources exist or will be created in the situation under discussion, and proceeds to the allocation of scarce resources among alternative ends implicitly specified by the fixed group of individuals. As soon as the number of claimants is no longer fixed, but instead is a variable (perhaps along with other variables) whose value is to be decided in the course of the analysis, conventional economics is struck dumb, and the analysis loses clarity.[4] Hence, economic theory is not a rich source of ideas concerning the topic at hand.

Some Economic Consequences that Arouse Concerns

It would seem reasonable that potential immigrants who would be a direct economic burden upon citizens through the public coffers should have no claim to be admitted. That is, no one has a legitimate claim to enter a society and freeload upon others by using more welfare services than taxes paid. But the data show that, on average, immigrants are *not* burdens in this fashion,[5] and therefore this is a much less restrictive condition than

---

[3]See William H. McNeill, "Human Migration: A Historical Overview," *Human Migration—Patterns and Policies* (Bloomington: Indiana University Press, 1976).

[4]Only the utilitarians (e.g., Sidgwick) have attacked this issue frontally, and their analysis is no longer persuasive to me. See Julian L. Simon, *The Economics of Population Growth* (Princeton, N.J.: Princeton University Press, 1977), chap. 18.

[5]See Julian L. Simon, "Immigrants, Taxes, and Welfare in the United States,"

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

it might seem. Furthermore, it is a (surprising) fact that immigrants are *more* of a benefit nowadays with the existence of government welfare programs than in earlier eras when there were few or no such programs. The reason is that immigrants tend to contribute more to the public coffers in taxes than they take out in services (though this does not take into account indirect effects such as greater competition for housing or in the labor market).

Another common difficulty is the assumption that immigration implies a net cost to natives. Some writers put heavy weight on a supposed reduction of "wealth and resources" per native because of immigrants.[6] More generally, much recent philosophical discussion about population has been based on the idea that resources are increasingly scarce with larger populations.[7]

The Concern about Homogeneity and "Alien Values"

An issue to be mentioned only in passing is whether keeping the society homogeneous culturally or racially is a "good" reason for a nation to bar potential immigrants. For many, cultural homogeneity constitutes a reason to limit immigration.[8] Such a consideration of taste is beyond the scope of this essay, though one could investigate the consequences for such issues as economic freedom of restrictive policies based on cultural homogeneity. A related matter is a group's desire to "maintain their present way of life."[9] This issue involves so many weighty and worthwhile considerations on both sides of the matter that, like the boardinghouse issue in racial discrimination in the United States, it would have to be resolved by a judicial-like process, though the appropriate jurisdiction for such a judgment is not at all obvious.[10]

The Concept of Rights: Not the Place to Begin

Which intellectual tools are best fitted to help us tackle the question this paper addresses? The legal–philosophical concept of rights—for potential immigrants, for natives, and for a country —comes quickly to mind. But I have concluded that arguments

---

Population and Development Review 10, no. 1 (March 1984): 55–69; idem, *The Economic Consequences of Immigration* (Boston: Basil Blackwell, 1989); idem, *Immigration—The Demographic and Economic Facts* (Washington, D.C.: Cato Institute and National Immigration Forum, 1995).

[6]See Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983), p. 47.

[7]For example, see Bruce A. Ackerman, *Social Justice in the Liberal State* (New Haven, Conn.: Yale University Press, 1980).

[8]Margaret Thatcher, former Prime Minister of Great Britain, voiced this argument, and based her immigration policy upon it.

[9]Walzer, *Spheres of Justice*, p. 47.

[10]Certainly, the recent history of international tribunals does not offer much hope that such a forum could be very satisfactory.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

involving either natural individual rights, or individual rights derived from other sources, will not be helpful in this case. Any such discussion necessarily brings up the question of who is to be allowed to share the right—persons outside as well as inside the nation's borders, or just those inside it. And to decide that question requires a theory of the state, which would, as I see it, inevitably be tautologous.

Furthermore, the notion of a right of a *country* seems to have little standing in philosophical discourse,[11] despite its casual use in common discussion and perhaps in international law. I will forswear the use of such a concept both for that reason, and because such use appears to me unnecessary as well as confusing.[12]

To put it another way, if there is to be a useful discussion of rights in this case, it must proceed similarly to the discussion of other rules for the "great society," a discussion which considers pragmatically which rules provide the best framework for freedom, for the enjoyment of property and family, and for progress toward greater wealth and higher civilization, rather than considering which rights are "natural" or consistent with a theory of the state.[13] If one accepts that natural rights are not an appropriate concept for this situation, one may also be willing to accept that discussion of abstract rights by itself will not immediately resolve the problem, no matter how enlightened the discussion.

One might also try to draw conclusions about rights—on the part of either potential immigrants or of present citizens—from other rights and privileges. An example would be a citizen's seeking protection by his country when abroad, protection to which a non-citizen is not entitled. But I have not been able to make any headway with this approach; perhaps in other hands it would be more fruitful. Nor have I found relevant such related concepts as the "right" of a nation to require military service of a citizen, but not of a non-citizen.

One of the drawbacks of hanging the issue on a discussion of rights is that the same basic set of assumptions can lead to very

[11]But see Walzer, *Spheres of Justice*, p. 52.

[12]If one identifies a nation's rights with what international law allows, then the concept takes on some precision. On this, see Henry Shue, "Border-Crossings: National Autonomy and National Responsibility," photocopied, undated. But I think this is not what most persons have in mind when they talk about a nation's rights.

[13]It seems to me that the natural-rights approach, in conjunction with a common-law system, works best for situations concerning which there exists a great deal of experience, the kind of highly structured situation that one encounters in daily legal decision-making.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

different conclusions. For example, Carens says he begins at the same place as does Rawls—"the spirit of the moral point of view, i.e., that in reasoning about moral issues we should try to avoid being influenced by self-interested or partisan considerations"[14]—but reaches a global view of immigrants' rights, whereas Rawls draws a boundary around nations:

> Now clearly knowledge about one's citizenship (e.g., whether one is a citizen of a rich nation or a poor one, whether one is already a citizen of a particular state or an alien who wishes to become a citizen) is knowledge about "specific contingencies" that could "set men at odds." A fair procedure for choosing principles of justice must therefore exclude knowledge of these circumstances, just as it excludes knowledge of one's race or sex or social class.
>
> This leads to a global view of the original position. The principles of justice apply in the first instance to the world as a whole and only derivatively to nation-states. Rawls's attempt to restrict the investigation of the principles of justice to members of a given society is not justifiable because such an approach presupposes the legitimacy of the autonomous nation-state. But the whole point of the original position is to provide a perspective from which to assess the legitimacy of social institutions. The legitimacy of the state as a social institution thus depends upon the extent to which it is compatible with the requirements of the principles of justice.[15]

Before leaving the concept of rights, let us consider the possible role of what I shall call secular rights, those derived not from a conception of what is "natural" but instead from a conception of what is necessary for the governance of society under particular conditions. The Hayekian (also the libertarian) idea is that, in the proper governance of a modern "great society," all persons ought to be treated equally; it is as simple as that.[16] The

---

[14]Joseph H. Carens, "Aliens and Citizens: The Case for Open Borders," *The Review of Politics* 49, no. 2 (Spring 1987): 251–73.

[15]Carens, "Aliens and Citizens."

[16]Some representative observations:

> There is . . . a fundamental difference between what is possible in the small group and in the Great Society. In the small group, the individual can know the effects of his actions on his several fellows, and the rules may effectively forbid him to harm them in any manner and even require him to assist them in specific ways. In the Great Society, many of the effects of a person's actions on various fellows must be unknown to him. It can, therefore, not be the specific effects in the particular case, but only rules which define kinds of actions as prohibited or required, which must serve as guides to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Old Testament says the same about treatment of Jews versus foreigners or non-Jews.[17] Were this right not to be opposed by another necessary (?) pragmatic right, or by some consideration of ill consequences that may flow from this right, perhaps it would be enough to enunciate the right for the question to be settled. But I believe that the discussion that follows compels us to think that there are opposing forces that cloud the issue. An example, to be considered now, is the right to be secure in one's property, and the associate right to transfer one's individual property to whomever one wishes, including descendants; this right is fundamental for libertarians and for Hayek.

The right of bequeathing property raises interesting questions. Does a small collective, such as an agricultural cooperative, have the right to bequeath its property to whomever it wishes? May some person be barred from joining the collective on

---

> the individual. In particular, he will often not know who the individual people will be who will benefit by what he does, and therefore not know whether he is satisfying a great need or adding to abundance. He cannot aim at just results if he does not know who will be affected.
>
> Indeed, the transition from the small group to the Great or Open Society—and the treatment of every other person as a human being rather than as either a known friend or an enemy—required a reduction of the range of duties we owe to all others.

Friedrich A. Hayek, *The Mirage of Social Justice*, vol. 2, *Law, Legislation, and Liberty* (Chicago: University of Chicago Press, 1976), p. 90. On page 95, Hayek adds:

> To ask for protection against being displaced from a position one has long enjoyed, by others who are now favoured by new circumstances, means to deny to them the chances to which one's own present position is due.

An objection to a global view is what Shue calls "priority for compatriots." He says it is "at the very least acceptable—perhaps necessary or even admirable," and in the name of this principle he respects "cosmopolitanism." See Shue, "Border-Crossings," p. 2. But one cannot accept "priority for compatriots" as a principle for private actions, representing an emotional fact of human nature, and reject it as a principle for legal governmental action.

[17]Hayek added, however, that this principle applies only to those who share the same moral values. In personal correspondence to this author, dated May 26, 1984, he wrote:

> My general principles clearly apply fully only between people who have a common system of basic moral beliefs. How far this justifies an exclusion of immigrants by the powers of the state I am simply not clear. But I certainly accepted it as fully justified of the inhabitants of the Tyrolese village in which I have now spent my summer holidays for some twenty-five years, [when they] several years ago refused to sell me a piece of land on the ground that they did not do so to foreigners.

However, I do not fully grasp his qualification (that the principle applies only to those who share the same moral values), and I did not have the opportunity to explore it with him, although the following discussion may discover what he had in mind.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the basis of their backgrounds? And what about a larger collective, such as a town? Is there a private–public distinction here that leads to personal property having a different status than common property? At which point does one pass from a situation in which rights are accorded to an individual, or to a partnership, into a situation of a group so large that it cannot be thought of in the same way? A town in the United States may not prohibit any person from purchasing or renting a home on the basis of education or color or religion or other background characteristics. May the nation, then, do so? It would seem that the nation's right to exclude people on the basis of their background characteristics requires that the nation be thought of as an entity fundamentally different from any other entity, either private or public. This would require a compelling theory of the nature of a country-state if one is to make an argument about immigration on the basis of rights. Moreover, the theory would have to be different from the theory of the "night watchman" state, because the latter pertains to the city as well as to the nation, and a city is not permitted (in the United States) to make an immigration policy.[18] These questions will not be pursued now, so as to hurry on to other matters. But I have the impression that it is next to impossible to construct a satisfactory argument for either closed or open borders on the basis of rights alone.[19]

ARGUING FROM THE CONSEQUENCES OF AN IMMIGRATION POLICY: SOME NON-PROBLEMS FIRST

There are three possible bases on which to evaluate immigration: natural law, contract law, and consequences. As I see it, the first two approaches do not work, so we must pass on to the third and more general mode of analysis, asking: what *consequences* are likely to follow if an open-borders or a closed-borders policy is adopted? The question about secular rights discussed above may also be seen in this context, of course, in the following form: what will be the consequences for the system of rights if one or another rule is adopted with respect to immigration? But now we focus upon more direct economic and political consequences.

Before proceeding, however, we need some agreement about what is good and what is bad. Therefore we ask: is there any overarching general principle that one can appeal to with some

---

[18]Whether states, such as Hawaii and Oregon and Colorado, that wish to restrict immigration may do so is a matter which the courts have been considering lately.

[19]Yet, the discussion will later come around the circle far enough that the reader may feel that it is really founded on a concept of rights.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

hope of gaining agreement? I hope that the "Great Society" of Hayek is a goal toward which the U.S. and the world are evolving, and also (but not therefore) should aim at.

The Great Society implies 1) allowing free mobility, and 2) doing no avoidable harm to others. Specifically, some feel harm from "cultural" changes induced simply by others changing the makeup of a community of country. (We can put ill economic effects aside as mostly not occurring.) U.S. society has legislated against the introduction of such "cultural" harm being allowed to matter in public accommodations, hiring, etc., and this is no longer subject to debate. It has been accepted as the "right" and moral thing to do. But this has not been extended to immigration. Nor does the whole world have such rules, so it cannot claim universality and hence "natural law" status.

Now to specifics: as noted earlier, it would seem reasonable that an immigrant be required not to cause general economic harm to natives. This requirement is different for persons outside the nation than for those who are citizens, however. Within a nation, it would be difficult to carry out this policy, even if it were desired and acceptable, especially with respect to particular groups of migrants. For example, we make little or no attempt to prevent persons who may need public assistance from moving from one community to another. But the matter may well be different internationally, both technically and ethically. So it seems reasonable to require that a person have a reasonable probability, based upon his own capacities or the guaranteed help of others, not to become a public burden in the direct sense; this was even a requirement during the open-door days (toward Europe) of the U.S. before 1921.[20]

But what about indirect burdens, and burdens upon particular sub-groups within the society? An added person may cause added congestion in some areas. An added person causes damage to some individuals by increasing competition in the labor force. It is impossible for an immigrant to enter without doing damage to *some* sub-group, and therefore no one could enter without being challenged by some groups or persons. Hence, I submit that such indirect damage to one or another sub-group cannot be accepted as grounds for automatic disqualification.

What about indirect negative consequences for the community at large, that is, the population within the nation-state? Here

[20]We ought not tarry on this point, I think, because more difficult and controversial matters await us.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

we must discuss which kinds of damage will and which will not be considered relevant. Should *any* kinds of effects that citizens regard as damaging be considered disqualifying? The entrance of people with foreign racial characteristics is, of course, a key issue. Here it would seem to me reasonable that damage to citizens' sensibilities should not be cause for barring a potential immigrant. If a taste test of this kind were acceptable, there would be no reason why some citizens could not use such a test against other citizens in a form of unchecked democracy, with the sorts of majoritarian dangers that worried the framers of the U.S. Constitution.[21]

Racial-exclusion arguments are often made on the grounds that race-mixing leads to social tension and violence. It would seem indubitable that racial differences are *sometimes* the occasion for violence. But I have seen no evidence that the level of tension and violence in mixed societies is greater than in more homogeneous populations. Furthermore, there would seem to be a distinction between conflict that is personally unpleasant to some citizens and conflict that threatens the stability of the state as a whole.

One might argue that an infusion of a "foreign" racial group may lead to pressures to partition a nation into two or more nations. But unless one assumes a value for the existence of the state itself, in contrast to the continued existence of the state for the purposes of facilitating the economic and personal lives of the persons within it, then the argument of potential partition has no weight.

ARE THERE SOME REASONABLE GROUNDS FOR REGULATING IMMIGRATION?

Alteration of the Economic–Political Infrastructure

All agree that predictability of economic structure and rules is a necessary precondition for successful community economic life, because such stability is a precondition for the ability of an individual or an enterprise to influence its own fate secure from arbitrary manipulation by others. And such predictability requires a measure of continuity and stability in a society's political institutions. We may think of a nation as having created an organization that conducts its business with some effectiveness; such an

[21]This is more in the nature of a personal opinion than a reasoned judgment. It should be recognized here that such notables as Margaret Thatcher do not necessarily agree with this point of view, as suggested by word and action.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

organization is a valuable asset, just as the firm's organization is for its own affairs. The organization may not be "best" in some abstract sense, and it may well not be the result of "rational" design. But the fact that the organization survives indicates that, whatever its historical roots, it has some continuing value; citizens surely have invested much in dependence upon the continuation of that particular mode of organization.

What if the numbers (or types) of immigrants are sufficiently large as to quickly become a majority in some place or another, or large enough to combine with others to alter the fundamental fabric of the nation, and hence threaten the existence of that mode of organization? For example, consider the case of a large country like China threatening to inundate a much smaller country, say, Singapore, with so many immigrants that the entire political complexion would be changed by means of democratic and constitutional process. And what if this were to be done for Chinese reasons of state, ideological or strategic? Should a nation simply accept the impending disruption or destruction of its economic life, even putting aside the question of the social order and historical continuity?

Perhaps this possibility is what underlies Hayek's idea of a "common system of basic moral beliefs." If it is reasonable to suppose that such a common system of values exists, one may also assume that there is no danger of alteration in the political–economic infrastructure from a given group of immigrants. But discrimination among potential immigrants on such a basis clearly is fraught with difficulties and dangers.

If unlimited immigration presents a threat of this sort, a nation may reasonably put some limits upon its immigration on the grounds of protection of property and economic life. To me, this seems to be the *only* compelling argument in favor of limits upon immigration with the context of a "Great Society."

Having said this much, I wish to back off and take notice that this line of argument is not a general warrant for any arbitrary limits upon immigration that a nation wishes to impose (though the nation might, of course, find other warrants not included in the discussion here). Perhaps an appropriate way to think about the matter is that the burden of argument should be upon a nation to justify restrictions in terms of potential damage, rather than upon potential immigrants to show that the restrictions do not potentially inflict damage. It would not be easy to make a strong showing that a potential immigrant cohort would be large enough or would have the sorts of characteristics (other

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

than lack of skills, discussed below) that would threaten to alter irreparably the economic, political, or social fabric of the society. Even if the volume of immigration were so large as to constitute a majority within five or ten years, it is not at all clear that this would threaten fundamental change, because of the demonstrated fact in the United States of successful absorption of immigrants no matter how foreign they might seem upon arrival. Perhaps a takeover of a small nation by a large one, of the sort discussed above, might be a real threat, but the world has never yet seen such an event, and therefore it would not seem reasonable to take strong steps to prevent its occurrence.[22]

Additionally, the required length of residence prior to acquiring citizenship and the right to vote—a procedure now in effect in the U.S., though under some attack by those who believe that all residents should have the right to vote[23]—might

---

[22]Carens, "Aliens and Citizens," pp. 10–11, makes a similar argument, and expresses similar reservations about whether it would ever apply.

[23]Some writers—Walzer, for example—suggest that if delay in receiving citizenship were deemed necessary, it would be better not to admit the immigrants at all.

One might insist, as I ultimately do, that the same standards apply to naturalization as to immigration, that every immigrant and every resident is a citizen, too —or, at least, a potential citizen. That is why territorial admission is so serious a matter. The members must be prepared to accept as their own equals, in a world of shared obligation, the men and women they admit; the immigrants must be prepared to share the obligations. But things can be differently arranged. Often, the state controls naturalization strictly, but immigration only loosely. Immigrants become resident aliens and, except by special dispensation, nothing more. Why are they admitted? To free the citizens from hard and unpleasant work. Then the state is like a family with live-in servants. As Walzer, *Spheres of Justice*, p. 63, states, "That is not an attractive image, for a family with live-in servants is—inevitably, I think—a little tyranny." On page 52, he stated:

> The determination of aliens and guests by an exclusive band of citizens (or of slaves by masters, or women by men, or blacks by whites, or conquered peoples by their conquerors) is not communal expression but oppression. The citizens are free, of course, to set up a club, make membership as exclusive as they like, write a constitution, and govern one another. But they can't claim territorial jurisdiction and rule over the people with whom they share the territory. To do this is to act outside their sphere, beyond their rights. It is a form of tyranny.

There are several reasons why I reject this view. First, it is contrary to fact in the U.S. that immigrants on average do dirtier work than natives. Second, a waiting period for citizenship has always been in force, with little or no complaint. Third, and most important, it forces the preferences of natives upon immigrants, telling them that even though they would prefer non-citizenship worker status to not entering, they are to be considered worse off in that status, and natives would therefore be faced with "not an attractive image," i.e., this notion is based on the tastes of native, or, more specifically, the tastes ascribed to them by Walzer.

Furthermore, this argument has been used cynically by anti-immigration organizations—i.e., comparing illegal aliens to pre-Civil War slaves—as a way of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

avoid the danger of democratic takeover, while allowing all who wish to enter, work, and live to do so.

Negative Learning Externalities

Another possibly relevant issue is what may be called negative learning externalities. People learn from one another in the work place, and if the people with whom one works do not have a high level of technical skill and general economic culture, one's performance is likely to suffer. Indeed, this—along with a defective economic–political structure—is the most plausible explanation of low individual productivity in countries with low average productivity. Therefore, one could object to massive immigration on the grounds that it would lower economic output. Indeed, it would make little economic difference if an individual worked in the U.S. in an environment with 99% new immigrants from very poor countries, or worked in the countries from which those persons came. It is important to note that the phenomenon under discussion is the learning relationship between people, and not complementarities of skill; the latter phenomenon suggests that highly skilled technical persons benefit rather than suffer from the presence of additional low-skill immigrants.[24]

---

advancing their own desire for fewer immigrants. As Hayek pointed out, in *Law, Legislation, and Liberty*, p. 90:

> Those very groups within the existing states which are loudest in their demands for "social justice," such as the trade unions, are regularly the first to reject such claims raised on behalf of foreigners. Applied to the international sphere, the complete lack of a recognized standard of "social justice," or of any known principles on which such a standard could be based, becomes at once obvious; while on a national scale, most people still think that what on the level of the face-to-face society is to them a familiar idea must also have some validity for national politics or the use of the powers of government. In fact, it becomes on this level a humbug—the effectiveness of which with well-meaning people the agents of organized interests have learnt successfully to exploit.

[24]William Poole suggested, in personal correspondence (July 22, 1986), that account should be taken

> of *why* Backwardia is backward. Per capita production in Backwardia might be low because of poor political and/or incentive systems. Once an individual moves to Richonia, his output might immediately rise to the average level in Richonia. There is, in this case, no reason to expect that immigration will make Richonia more similar economically to Backwardia. . . .
>
> It is often the case, for example, that foreign scholars coming to the U.S. are instantaneously more productive than in their native countries.

For example, the pay of German full professors does not depend upon the quantity or quality of research and writing in their own country, but the incentive structure is different if one moves to the U.S. Change in behavior would then not be expected to depend upon whether a given immigrant German professor worked with native U.S. professors or with other new-immigrant German professors.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

As with the effects of massive immigration upon U.S. political institutions, it is certain that people will worry about this phenomenon much more than is warranted, and will use it as a smoke screen for other motives in restricting immigration. Yet, the possibility must be mentioned. And if one begins with the premise of the sanctity of property, there is certainly a potential objection to immigration here. Perhaps the clear-and-present danger doctrine is again the most reasonable reply.

SOME OTHER CONSIDERATIONS

1. It may be illuminating to note that a nation controlling its borders *in extremis* is the opposite side of the coin from a group of people asserting autonomy for the region in which they live; without some possibility of keeping others out, effective autonomy is not meaningful.

2. A more philosophically based approach to this subject may be developed by beginning with an argument by Robert Nozick, even though he is addressing emigration, rather than immigration.[25] Nozick considers whether a person should be prohibited from emigrating in light of a possible obligation for a citizen to contribute to the provision of social welfare for other members of society. He concludes in the negative, partly by reference to the ludicrousness of a nation being entitled to kidnap persons outside the country in order to compel such contributions.[26] The provision of social welfare does not come into the present discussion

---

If Poole's point has wide application, then the point under discussion is less important.

[25]See Robert Nozick, *Anarchy, State, and Utopia* (New York: Harper Torchbooks, 1974), pp. 173–74.

[26]Nozick's argument is strikingly reminiscent of one made by John Locke in 1690. See Locke, *An Essay Concerning the True Original Extent and End of Civil Government*, in *The English Philosophers from Bacon to Mill*, Edwin A. Burtt, ed. (New York: Modern Library, 1939),pp. 406–7:

> I desire them to resolve me by what right any prince of state can put to death or punish an alien, for any crime he commits in their country. 'Tis certain their laws, by virtue of any sanction they receive from the promulgated will of the legislative, reach not a stranger; they speak not to him, nor, if they did, is he bound to hearken to them. The legislative authority, by which they are in force over the subjects of that commonwealth, hath no power over him. Those who have the supreme power of making laws in England, France, or Holland, are to an Indian but like the rest of the world—men without authority. And, therefore, if by the law of nature every man hath not a power to punish offenses against it, as he soberly judges the case to require, I see not how the magistrates of any community can punish an alien of another country; since in reference to him they can have no more power than what every man naturally may have over one another.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

because, as we have seen, the average immigrant is a net contributor, rather than a net recipient, contrary to popular belief. But the more general notion that may be extracted from this line of thought is that a state surely should have the right to require that a citizen pay his or her contractual debts before leaving—delinquent taxes, for example, or debts owed to another citizen—even if it does not have the right to prevent emigration to extract payments that are not owed by contract or law. And this leads back to the idea that persons in any country have the right to protect themselves in elementary ways; the right of self-protection is asserted and delineated clearly by Locke. And though the concept of right may pertain to individuals and not to groups, there are situations in which individuals can only protect their rights if they do so in a corporate manner, as is clearly the case with a police force, and it would seem to be the case with some aspects of emigration and immigration, too. That is, if some regulation of immigration is absolutely crucial to protect the basic interests of citizens, construed narrowly, this would not seem different from other actions of the "night watchman" state.[27]

CONCLUSION

Is there any persuasive reason for a country to bar a healthy, law-abiding person from immigrating? That is the question that this essay addresses. Many believe it is in the natural order of things that movement across borders should be limited. But prior to World War I, it was thought uncivilized for nations not to permit free movement, and even passports, for the most part, did not exist.

Arguments about immigration based on "natural rights" all seem to be inconclusive, in part because the concept of rights does not apply to countries as it applies to individuals. Therefore, as with most other policies, we turn to judging the matter by considering its consequences.

The consequence most worried about is that immigrants constitute a financial burden on the public fisc. This worry usually

[27]The reader might wonder how this line of argument relates to states such as the USSR, which used to require repayment of education costs before persons were allowed to emigrate. There might be a reasonable argument that emigrants ought to pay net costs of some sort before leaving. But the child's parents, on average, pay taxes in the full amount of the child's education, and therefore there is no family net obligation. A state might make an argument on the basis of personal independence, but then it would have no grounds to collect taxes from parents to pay for children. Of course, there might be some special circumstances, say, a child receiving extraordinary educational or medical expenses, but this would not be a fruitful path down which to proceed here.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

runs contrary to the facts, however, and a variety of policies, many of them already in place, can prevent a welfare burden even in most individual cases.

Job displacement is another major concern. But a considerable body of recent research shows that immigrants do not have general negative consequences on labor markets; rather, the overall consequences are generally positive. Some particular groups may be injured by a particular group of immigrants (mostly in wages rather than increased unemployment); physicians are a case of an occupation being harmed by immigrant doctors. But the concerns about a negative partial effect in the face of a positive general effect are the same as in the case of trade theory, and hence are not likely to be operative here.

The difficult questions—and therefore the possible justifications for controlling entry—arise with respect to externalities. Some externalities can be internalized by appropriate tax measures—for example, the costs of school buildings and roads. But externalities such as native children learning more slowly because schools have so many immigrant children—an unlikely event, but one which must be considered in principle—cannot easily be internalized (though a voucher system might go a long way). It should be noted that other natives are not barred from entering a community on such grounds, however.

Societies which accept as legitimate the idea that persons have greater private obligations to those more closely affiliated with them—an effective mechanism for supplying help to those in need, but one which tended to be suspect in such societies as the Soviet Union, even within the family—might also embody the same principle in governmental actions. But it may well be that while this principle is constructive with respect to personal acts, it is destructive with respect to public action.

The most important externality is alteration in the economic and social system. If a large country were to flood a small country with immigrants for the purpose of taking it over democratically and then changing the system, this would threaten the natives' property in their means of livelihood, because economic activities depend upon the social–political system. But such a possibility is quite unlikely. Furthermore, making the right to vote contingent upon citizenship, which is awarded only after some passage of time, may safeguard against this possibility. The same device should help to ensure that at least the voting populace share basic civic values, a consensus of which many writers argue is crucial for the satisfactory functioning of any society. Having

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

non-voting residents with different values (at least at first) who might influence citizens—"foreign revolutionaries"—is a possible objection to immigration, but I do not know of any evidence to confirm (or deny) that this is ever a realistic danger.

In short, the negative consequences of any level of immigration which is politically imaginable at present are at most speculative, rather than documented. Therefore, a policy which is both prudent and also consistent with the observations would be to increase immigration quotas in a series of increments of significant size—perhaps half a percent, or one percent, of total population at each step—to check on any unexpected negative consequences, and to determine whether demand for admission even exceeds the supply of places.[28]

So, where have we arrived? The main point is that it seems reasonable and acceptable for a given population of individuals, at the governmental level of the nation-state, to assert that they have a property right in their social and economic organization. This means that under some circumstances, it may be appropriate for them to decide how many and which potential immigrants are allowed to enter. But it is ridiculously easy to concoct a supposed threat from immigrants to the economic stability and predictability of the nation-state. So this line of thought could be used to justify any restrictions upon entry that a country wished to enact. Therefore, there should be built into the constitution of the country sufficient safeguards against this power being used in situations other than those of clear-and-present danger. We also ought to recognize that to create such safeguards would be a very difficult task, one that goes beyond the bounds of this essay.

[28]In this connection, we should note the current zero net immigration from Puerto Rico, whose population may freely move to the fifty states.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A LIBERTARIAN ARGUMENT AGAINST OPEN BORDERS

John Hospers*

It is 1939, and a ship filled with refugees from Nazi Germany tries to dock, first in Miami, then in Havana, but it is not permitted to dock. The ship returns to Germany, with death as a result for most of the refugees. In 1995, the U.S. Coast Guard forces a group of escapees from Cuba back onto the ships of the Cuban authorities, sealing the fate of those who were trying to find freedom in the United States. Of course, neither of these ships should have been stopped.

It is easy to generalize from such cases to the conclusion that *everyone* who wishes to come to the United States should be permitted to do so, and indeed, this conclusion has been supported by many people in the libertarian movement; it is called the policy of "open borders." I believe that such a generalization is mistaken.

Do the proponents of this view intend to include *all* persons wishing to enter *any country?* If so, it would imply that Israel should be committed to a policy of open borders for Palestinians, which would surely involve intense armed conflict. Is the "open borders" policy to be carried out for any person in any nation no matter what the conditions? Doesn't it depend on what those conditions are?

Sometimes, however, libertarians limit the application of this view to the United States; at any rate, the examples they give are usually limited to the United States, although it is not clear why their suggested policy should be so restricted. Why should a general principle be confined in its application to one particular nation or locality?

In their attempt to defend the "open borders" policy, some libertarians allege that all people have two rights with regard to immigration. First, they have the right to leave any country they want to leave. (Presumably this includes the proviso, "if

---

*John Hospers is professor emeritus of philosophy at the University of Southern California, and currently teaches philosophy at the University of California at Los Angeles. He is the author of several books, including *Human Conduct, Introduction to Philosophical Analysis, Understanding the Arts,* and *Meaning and Truth in the Arts.* He has also edited three anthologies. In 1972, he was the Libertarian Party's first candidate for U.S. president (and received an electoral vote in that election), as well as the author of the Party's Statement of Principles.

Journal of Libertarian Studies 13:2 (Summer 1998): 153–165
©1998 Center for Libertarian Studies
LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

they can afford it" or "if they are able to do so." Of course, libertarians would not usually approve of someone robbing a bank to obtain the passage money.) But this right is not sufficient: they can leave their own country but may not be able to enter another one. So the first right is supplemented by a second: their right to take up residence in any country they may choose. Without the second, the first would be quite useless.[1]

But does a person have a right to go to whatever country he chooses? Doesn't that depend on the approval of the proposed host country, or its political leaders? Some immigrants from Cuba were hardened criminals (Castro dumped them on us), and most of us would not have wanted them here, nor do we want them here now, in view of the crimes they committed in the U.S. and the expense of housing them in American prisons. Moreover, most people believe that there are many non-criminals who should be denied entrance. Should we take in mental patients who would have to be housed at public expense in psychiatric hospitals? Indeed, some nations refuse entrance to would-be immigrants who do not possess some skill or trade that would be useful in the host country; Australia, for example, prefers miners and engineers, but not dishwashers ("we have enough of those already"). Admittedly, it is not always easy to know in advance who will be useful in a certain society; some geniuses might not be admitted.

Still, just because we find it desirable to take in *some* immigrants, should we therefore be obliged to admit *all*? Isn't it up to *us* whether we choose to invite them into our country? Should we admit ten thousand trained bullfighters because they are, after all, experts in their profession? Or suppose that there is so much poverty or warfare overseas that ten million or more people want to come in every year. Should they all be admitted, just because they want to come? Yes, say "open borders" advocates, it isn't up to us, it's up to the immigrant. The immigrant has the right to come, and it is up to us to adjust to this fact by inviting him in. (Must we then give him a place to live as well? It's not clear how much the right is supposed to include).

The right of one person necessarily entails the obligation of another person or persons. If you have a right to life, I have the obligation not to kill you; if you have a right of free speech, I have the obligation not to stop you from speaking. The first half would be pointless without the second. If any given person has

---

[1]Richard Ebeling and Jacob Hornberger, eds., *Free Trade and Open Borders* (Fairfax, Va.: Future of Freedom Foundation, 1995). See also their audio tapes and videotapes by the same title.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the right to enter the United States, who is it that has the obligation? Every person in the United States? Or only the person whose property the immigrant wishes to inhabit? Or perhaps, no one person in the United States, only the U.S. government, even if no individual in the U. S. wants him.

When one person treads on, or in any way occupies, however temporarily, the property of another person, unless the property owner has consented to the other person being there, the first person is by law guilty of *trespass*. It is the property owner's right to have the trespasser removed from his property.

Shouldn't that same legal principle apply to people from outside the country? Aren't they trespassers too, unless someone in the United States consents to having them on his property? Why should the property owner be free to reject the domestic trespasser but not the foreign one?

Most libertarians believe that all property should be privately owned. In that case, if the owner is to retain his property right, the prospective immigrant must have the consent of at least one property owner in the United States, the person who consents to play host to him. If nobody wants him, he can't come, that is, if the owner is to retain his property right. The problem is that his property right conflicts with the alleged right of the immigrant to go wherever he wants to. It is impossible to honor both.

Some might say that the immigrant doesn't require that consent on *public* property. Should he then live on the public roads (which, according to most libertarians, should also be privately owned)? Or should public housing developments be built for him, thus requiring only the consent of the housing authorities? For obvious reasons, libertarians do not opt for this alternative.

The libertarian view is usually taken to be that it is illegitimate (immoral? wrong?) to interfere with the actions of a person who is not initiating force against another. Here is an alien crossing the border; he is neither using nor threatening force against anyone else, therefore one has no right to interfere with his freedom of movement. It is not the immigrant who is guilty of anything, but the immigration authorities who use force to stop him.

One wonders, however, whether the "no initiation of force" rule is to be accepted without qualifications or exceptions. The native Ecuadorians didn't want the Europeans on their jungle land, so they killed the first missionaries. The missionaries initiated no force against them, so one could say that the natives

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

were the aggressors. "But the missionaries were violating the natives' rights by entering their land without permission." That may be, but were they initiating force? "But their action was intended to keep the Europeans out—to send them a message, Don't invade our territory." That may be, and maybe it was justified; but still, was it the initiation of force?

There are many cases in which most Americans believe that a would-be immigrant should not be admitted. (1) Should we admit murderers who have served out their sentences in foreign prisons? "By committing murder, the would-be immigrant has initiated force in the past." But does this make a difference? He is not initiating force now or even threatening it. Do we go by his present conduct or his past record? Whatever we say on this, most Americans disapprove of Castro's action in releasing hundreds of thugs from Cuban prisons and dumping them into the U.S., where they caused a considerable crime wave in the cities to which they moved. Should the U.S. have admitted them despite their criminal records?

(2) Should we admit the thousands of southeast Asians who have various communicable diseases which are prevalent there but unknown here, but which are likely to start epidemics in this country? Suppose there were a new form of AIDS, communicable through one's breath. Should we say "Come one, come all, we won't stop you because we believe in the non-initiation of force"? "But then they *are* guilty of threatened initiation of force." Well, not exactly; there is a difference between initiating force and unintentionally passing on a disease. What if the ailment could only be communicated by some deliberate act which the individual might or might not commit, say, sexual intercourse?

Should we really be willing to see waves of diseased immigrants come in? Countless lives, including our own, might be saved by stopping these immigrants. Does the immigrant still have the right to enter regardless of the conditions?

I suggest that we say "It depends." The non-initiation of force rule may not be the only rule applicable to the situation. Most situations represent the junction point of different, sometimes conflicting, rules. Not initiating force against others is, in general, a good rule, but not needlessly exposing ourselves to fatal diseases is another. The "it depends" answer is reflected in a long and distinguished tradition in philosophy, e.g., in Sir David Ross's famous distinction between absolute rights and prima facie rights,[2]

[2]Sir David Ross, *The Right and the Good* (Oxford: Clarendon Press, 1930).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

between those rights we possess without qualification (no ifs, ands, or buts), and those of which we must say "other things being equal" or "provided that no other prima facie right overrides it." This makes things more complicated, but it also makes them more reconcilable with practical reality.

THE WELFARE STATE FACTOR

The main obstacle that confronts the "open borders" policy is that many people enter the United States in order to collect the free benefits that it has to offer: food stamps, welfare payments, free medical care, and so on. The United States is, after all, a *welfare state*, and as such it presents many attractions to the indigent.

We may grant, at least for the sake of argument, that most immigrants come in order to work. But if they do not find work, or work suited to their talents, there is a strong temptation (not usually resisted) to go on the dole. As the saying goes, "Theft is easier than honest labor." In any case, most immigrants don't seem to regard what they do as theft, or if they feel a bit ashamed at first, they soon come to consider a guaranteed income not as a privilege, but as a right, or an entitlement. The slide from the first to the second does not usually occupy very much time. The fact that they are living off the earned income of American citizens does not usually "strike home" to them, or if it does, they do not usually have prolonged doubts about the desirability of collecting unearned benefits. If they did, they might be deterred from procreating another generation of welfare recipients.

A dramatic illustration of this is provided in John Stossel's 1996 special on *20-20*, which gives an idea of the extent to which illegal immigrants have taken advantage of the American welfare system. It shows long lines of them collecting their welfare checks and food stamps. It further shows other illegals residing in Mexico, but coming across the border periodically to pick up more checks in post office boxes on the American side. Many people were apparently shocked to discover the extent to which their tax money was being used to subsidize non-earners.

In his monumental work *Capitalism*, Professor George Reisman defends a general policy of "open borders" with this proviso:

> To the extent that a country has a welfare system, tax-supported hospitals and schools, public housing, and so on, and the immigrants come to take advantage of these offerings, the effect is a corresponding loss to the present

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> inhabitants of the country, who have to pay the costs. The above proposition (open borders) applies to a country insofar as it is *without* these and other welfare-state-type programs—a country in which the immigrants must be self-supporting and themselves pay for whatever they receive.[3]

Not every defender of "open borders" exercises similar caution. When one questioner asks, "Isn't there a danger that immigrants will enter the country to receive the benefits of the welfare state?" Jacob Hornberger responds, "Then get rid of the welfare state!" The response, of course, provides no answer to the question asked. What are we supposed to do in the meantime? We have at the moment a rather "advanced" welfare state, and what policy should we adopt while we still have the welfare state with us?

SOME POINTS TO CONSIDER

Let me now present a few observations and arguments directed against the policy of unlimited "open borders."

Immigration and Menial Labor

It is often said that "we can't do without immigrants because we need them to keep the economy flourishing." But Japan, Taiwan, and other Asian nations permit almost no immigration; are they any the worse off for this? Some Californians say that we need immigrants to do the menial labor, such as picking strawberries. Do they really mean that without immigrants, strawberries would not get picked? In the absence of ultra-cheap labor, strawberries might well cost more, but the activity would continue as long as people had a taste for strawberries at a non-prohibitive price. In the agricultural and plains states of the U.S., there are virtually no immigrants, and those jobs for which there is a market usually get done.

Demography and Welfare

Today many California gardeners and landscapers are out of work because laborers from south of the border have replaced them at a lower wage. This condition can be defended, of course, as being beneficial for the consumers. But it is not beneficial for the displaced American workers, who sometimes go on welfare to survive against the cheaper competition.

It is true that if the immigrants stay and become a part of the American economy, they will work and pay taxes like everyone

[3]George Reisman, *Capitalism* (Ottawa, Ill.: Jameson Books, 1996), p. 362.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

else. But in doing so, they will on the average have more children than persons born in the United States, and will often become grandparents by the time they are 35, and these children will again have more children than persons born in the United States. Some will make it on their own, but a larger proportion of them than of native-born Americans will become dependent on the U. S. taxpayer for welfare, medical expenses, and public education; and they will usually receive preferential treatment by the government.

> No matter how new, all immigrants from the right "protected classes"—black, Hispanic, Asian—are eligible for preferential hiring and promotion. They are counted toward government quota requirements that were allegedly imposed on employers to help native-born minority Americans.[4]

Affirmative Action

Affirmative action and civil rights laws have prevented many Americans from obtaining jobs for which they are eminently qualified, particularly white males. A white male may still apply for a job as fireman or policeman in Los Angeles, but his chances of getting the job in the foreseeable future are not bright, because of the preference for "qualified minorities," and he is often told to go elsewhere.

The work force is less efficient than it would otherwise be, because of this preferential treatment. The debacle of the Los Angeles subway system, with its repeated cost overruns which make it probable that the project will never be completed, is largely the result of the policy of minority hiring: many millions of dollars have been wasted because of bad planning, money paid in return for no work, and projects that had to be done over again because, for example, the subway walls were not thick enough (the contractors pocketed the saved money). It is true, of course, that whites can be guilty of incompetence and cheating as well, but it is at least probable that if more attention had been given to competence and efficiency rather than to ethnic quotas, the job would have been done better. To this can be added many decisions of the federal courts, prompted by directives from the E.E.O.C., which have favored minority hiring, promotions, and frivolous lawsuits.[5]

---

[4]Peter Brimelow, *Alien Nation* (New York: Harper Perennial, 1995), p. 218.

[5]See for example Walter K. Olson, *The Excuse Factory: How Employment Law is Paralyzing the American Workplace* (New York: Martin Kessler Books, 1997), and Philip K. Howard, *The Death of Common Sense: How Law is Suffocating America* (New York: Random House, 1994).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Family Unification

Prior to the 1965 Immigration Act, a prospective immigrant had to have some skill that would be needed once he arrived. Since the 1965 Act, however, the emphasis has been on "family unification" which often means, "Let the immigrant's whole family come, and maybe they can all get on the welfare rolls." Two-thirds of the births in Los Angeles County hospitals are to illegal immigrant mothers.[6] "The incentive for citizenship has become to a large extent eligibility for welfare."[7] Legal immigration has become uncoupled from the needs of the American economy.

Immigration, Welfare, and Fraud

The average immigrant today has fewer skills than in previous decades. According to the 1990 census, immigrants arriving between 1985 and 1990 were more likely than other Americans to go on welfare. Indeed, the I.N.S. no longer makes an effort to enforce the guarantee given by the sponsors of immigrants that the new arrivals will not become "public charges." Many illegal immigrants have false social security numbers, and fraudulently collect food stamps. Moreover, local agencies are now essentially forbidden by confidentiality laws from reporting fraud to the I.N.S.[8] George Borjas writes:

> The per capita G.N.P. of the United Kingdom is more than six times greater than that of the Dominican Republic. It is not surprising that immigrant households originating in the Dominican Republic are about five times more likely to be on welfare than those in the United Kingdom.[9]

In general, immigrants from developed countries assimilate to the American economy better, and resort to welfare less, than those from less developed countries.

Population and the Environment

Unlike the population of other industrial nations, U.S. population is still in a state of rapid expansion. There are conflicting attitudes about this. Environmentalists deplore this expansion because of increased pollution, dirty water and air, and the loss of non-renewable resources and of wilderness areas. They want stricter environmental regulations and condemn the inadequate

---

[6]Leon F. Bouvier and Lindsey Grant, *How Many Americans? Population, Immigration, and the Environment* (San Francisco: Sierra Club, 1994), p. 20.

[7]Brimelow, *Alien Nation*, p. 149.

[8]Kate O'Beirne, "Bread and Circuses," *National Review* (September 1, 1997): 8.

[9]George Borjas, *Friends or Strangers: The Impact of Immigrants on the U. S. Economy* (New York: Basic Books, 1990), p. 158.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

enforcement of those regulations that are already in place. Most environmentalists propose radical programs of conservation, alleging that only such measures can save our environment.[10] However, many others doubt that the environment is anywhere near the verge of collapse, and they see an expanding technology as the solution to the problem: more technology and a free market can easily accommodate the great increase in population.[11] But whatever benefits the regulations may produce are often canceled out as soon as they occur by the increase in population growth. The anti-pollution regulations are rendered useless by the increased pollution that results from the population growth.

What is responsible for this constant increase in population? It is largely the consequence of increased immigration.

> Immigrants and their descendants will make up about two-thirds of the U.S. population growth during the 1990s. Thereafter, they will supply *virtually all* population growth. . . . And by 2050, the Census Bureau estimates that U.S. population will have reached 392 million. . . . At that point more than a third (36%) of the U.S. population will be post-1970 immigrants and their descendants—a staggering 139 million people.[12]

Irrevocability

Add to this the fact that once the admission of immigrants into the country has occurred, the action is well-nigh *irrevocable*. The immigrants and their descendants will remain here, regardless of the merits (or demerits) of having admitted them in the first place.

TRANSFORMING AMERICAN POLITICS AND THE POLITICAL STRUCTURE

The political implications of all this are enormous. Mexico, like many other Latin American nations, has a formal political structure not dissimilar to that of the United States, but its content is vastly different. There are far fewer safeguards of individual liberty, such as the U.S. Bill of Rights, and those that do exist are typically ignored in practice. Bribery is an accepted way of life, to escape arrest or imprisonment. Money and political power count more than does obedience to law. The system is rife with corruption at every political level, from the top to the

---

[10]Bouvier and Grant, *How Many Americans?*, p. 57.

[11]Julian Simon and Herman Kahn, *The Resourceful Earth* (New York: Basil Blackwell, 1984).

[12]Brimelow, *Alien Nation*, p. 46.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

bottom. Every Mexican knows this, and little is done to change it, because every cheater thinks he can "beat the system" by engaging in it. Of course, in the end, the whole system is brought down by an accumulation of such actions. Who you know, and whether you have money, is considered to be more profitable than living by the rules.

The nations of Latin America exhibit little knowledge or appreciation of the Lockean conception of limited government or of Jeffersonian democracy, or any of the other ideals of the founding fathers. Government in these nations has never been limited government, nor is it devoted to the protection of individual rights. Despite a few inroads, spearheaded largely by those from English-speaking nations, libertarianism does not have many adherents in Latin America.

When the new immigrants become a majority of the American population, will there be more, or less, devotion than there is now to the ideals of individual rights and limited government? Will the bureaucracy that is so corrupt in Mexico be any less so when it has migrated north of the border? Will there be less of a tendency than now to "live off the government"? Will the new immigrants help to stem the tide of taxes and regulations that now bid fair to bring the American republic to its knees? Shall the future of America rest on so slender a reed as this?

And what will happen then? The states most inundated by immigrants, California and Texas, will, through the sheer force of their numbers, lose whatever Republican majority they have (California no longer has it at all) and become increasingly affiliated with the Democratic Party, as most immigrants from Latin America now are. Last year an issue of *National Review* (June 16, 1997) was devoted to the "The Coming Democratic Majority" (the issue is subtitled "Immigration and Politics"). The new Democratic majority will not look kindly on taking actions that reduce the national debt, or curtail welfare, or anything that will increase prosperity or job creation; they will see such measures as "favoring the rich."

California has 54 electoral votes. It is difficult to win a national election today without that block of electoral votes. Politicians will do their utmost to woo California voters; they will tell them what the majority of Californians want to hear. Trimming big government, reigning in the bureaucracy, reducing welfare payments—these will not be vote-getting issues in the new Hispanic California. To suggest such things will be political suicide. Who can believe, in the light of the recent explosion of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

immigrants—many of whom were "swooshed in" (however dubiously) by Clinton during the 1996 campaign—that the emerging Democratic majority will veer in a libertarian direction?

MASSIVE IMMIGRATION BENEFITS THE "NEW CLASS"

The United States is being increasingly dominated by what Irving Kristol has called "the new class"—the class of regulators whose goal is not in any usual sense a socialistic state, but a new Regulatory State. Rupert Murdoch has described it vividly in a recent article:

> The classical definition of socialism, of course, is that contained in clause 4 of the old British Labour Party's constitution: public ownership of the means of production, distribution, and exchange. Socialism in that sense is dead. No one talks about nationalizing industries any more.
>
> But then, no one *has* to nationalize industries, because the extraordinary growth of regulation has given effective control of them to the government without its having to assume the hassle of ownership. Socialism has effectively reinvented itself. We can call it "neo-socialism." . . . And it's right here.
>
> Anyone who owns or manages a business must be aware of this neo-socialism. They find hiring, firing, buying, selling, just trying to operate, vastly more complicated than they were 15 or 20 years ago.
>
> In the last decade, the change in what you can do and what you can't do has been simply extraordinary. Whether it is digging a well or trying to get rid of a gopher, farmers . . . now spend a day a week in their offices filling in forms. . . . Farmers in the United States are now outnumbered by employees of the Department of Agriculture.[13]

The members of this New Class, Kristol writes,

> are professionals who run and benefit from the state and its power to tax: the government bureaucracy, the educational establishment, the media elite, which interlocks with both, and all their various client constituents, to whom they channel tax monies.[14]

---

[13]Rupert Murdoch, "Reinventing Socialism," *National Review* (September, 1, 1997): 38–40.

[14]Irving Kristol, *Three Cheers for Capitalism* (New York: Basic Books, 1978), p. 26.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

How is this dismal prospect related to the issue of immigration? Very closely indeed. To the New Class, increased immigration is manna from heaven. It will give them limitless excuses for more government intervention in the economy and in all social life. They will milk this bureaucratic windfall for all they can. They will grasp at the immigration issue as a means to expand their own powers.

> What will be the long-term consequence? Here is one projection for the future: deep into the twenty-first century, throughout the lifetime of my little son, American patriots will be fighting to salvage as much as possible from the shipwreck of their great republic. It will be a big wreck, and there will be a lot to salvage.[15]

The first act of the new drama is already being played. Recently, there was a world soccer match in Los Angeles. When the American national anthem was played, the large Hispanic contingent booed and hissed; and when the Mexican team won , 1–0, the American players were doused with beer and water. The incident was deemed sufficiently important to be the subject of a radio talk show, KABC, for two hours the following day. Many of the students I encounter at UCLA parade banners on behalf of Aztlan, a new Mexican nation, to be carved out of the states of the southwest United States, thus reclaiming what was "stolen from them" a century and a half ago.

A VISION OF THE FUTURE AMERICA

Those who advocate a policy of "open borders" would be well advised to go on a sight-seeing trip. Perhaps they need not go so far as the border itself, to see the illegals crossing the Tijuana River. Or the no-man's-land in which bandits prey on illegals, or the tunnels and various paths of exit into the U.S. which the illegals use night after night. It will be sufficient if they pay a few days' visit to the towns and countryside of the southernmost counties of California (or for that matter Arizona and Texas). Let them stay in the motels that ordinary citizens use, and walk the streets of any once-flourishing town which is now a shantytown, the fashionable shops all gone, and dangerous now to walk in or even to drive through by night. Do they hesitate any longer to visit Tijuana? Now they have it here.

Or let them leave the luxurious Bonaventure Hotel in downtown Los Angeles, a popular convention center where they meet

[15]Brimelow, *Alien Nation*, p. 268.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

with fellow intellectuals to discuss world problems, and walk just a couple of blocks to Skid Row, and witness the crowds of immigrants, most of them probably illegal, roaming the streets in search of one knows not what, and ask whether here in microcosm is the future of America.

Or let them go to a public elementary school, where thousands of children begin their classes without knowing a word of English. The teacher tries to impart to them the meaning of a few English words and phrases. (In some schools, no English is spoken at all, only Spanish.) One can imagine also the boredom of those first-graders who were born in the United States who are already familiar with these English words, whose minds wander to other things, some of which they are supposed to be studying.

Occasionally, we hear the phrase "limousine liberals" used to describe the members of the liberal establishment who send their children to expensive private schools while consigning all the others to the public school system, which educates these children so little that by the time they finish the eighth grade they can barely read and write or do simple arithmetic, or make correct change in a drug store. It would be equally appropriate, however, to describe some other people as "limousine libertarians"—those who pontificate about open borders while remaining detached from the scenes that their "idealism" generates. They would do well to reflect, in their ivory towers, on whether the freedom they profess for those who are immigrants, if it occurs at all, is to be brought about at the expense of the freedom of those who are not.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A LIBERTARIAN CASE FOR FREE IMMIGRATION

Walter Block*

> "None are too many."—Reply of an anonymous senior official in the government of Canadian Prime Minister McKenzie King to the question, "How many Jews fleeing Nazi Germany should be allowed into this country?"[1]

> All merchants shall have safe and secure exit from England and entry to England, with the right to tarry there and to move about as well by land as by water, for buying and selling by the ancient and right customs, quite from all evil tolls, except (in time of war) such merchants as are of the land at war with us. And if such are found in our land at the beginning of the war, they shall be detained, without injury to their bodies or goods, until information be received by us, or by our chief justiciar, how the merchants of our land found in the land at war with us are treated; and if our men are safe there, the others shall be safe in our land.[2]

In this paper I will attempt to analyze laws limiting emigration, migration, and immigration from the libertarian perspective. I will defend the view that the totally free movement of goods, factors of production, money, and, most important of all, people, is part and parcel of this traditional libertarian

---

*Walter Block is chairman of the economics and finance department at the University of Central Arkansas, and is a senior fellow of the Ludwig von Mises Institute. He is co-editor of *The Journal of Libertarian Studies* and the *Quarterly Journal of Austrian Economics*, and has served as editor of other scholarly journals. Among the books he has written are *Defending the Undefendable*, *Amending the Combines Investigation Act*, and *The U.S. Bishops and their Critics: An Economic and Ethical Perspective*. He is the co-author of *Lexicon of Economic Thought*, and *Economic Freedom of the World, 1975–1995*, among other works.

I would like to thank David Kennedy and Anthony Sullivan of the Earhart Foundation, and their colleagues on the Board of Directors, for financial support during the summer of 1997, which was instrumental in the writing of this article. The views expressed herein are of course mine, not theirs. I would like to thank Professors Larry White and Arnold Aberman for several suggestions which greatly improved this paper.

[1]Irving Abella and Harold Troper, *None is Too Many: Canada and the Jews of Europe, 1933–1948* (Toronto: Lester and Orpen Dennys, 1982), p. ix. I owe this citation to Phil Bryden and Jenny Forbes.

[2]From chapter 41 of the Magna Carta, cited in Samuel E. Thorne, et al., *The Great Charter: Four Essays on Magna Carta and the History of Our Liberty* (New York: Pantheon, 1965), p. 133. I wish to thank Ralph Raico for bringing this quotation to my attention.

Journal of Libertarian Studies 13:2 (Summer 1998): 167–186

©1998 Center for Libertarian Studies
UNAUTHORIZED ELECTRONIC REPRODUCTION PROHIBITED

philosophy. Like tariffs and exchange controls, migration barriers of whatever type are egregious violations of laissez-faire capitalism.

I begin by briefly reviewing the libertarian philosophical perspective. Next, I appraise each of these elements of the movement of peoples from this vantage point. Then, I consider—and reject—a series of possible objections. I conclude with an overview.

LIBERTARIANISM

Libertarianism is a political philosophy; as such, it is a theory of the just use of violence. Here, the legitimate utilization of force is only defensive: one may employ arms only to repel an invasion, i.e., to protect one's person and his property from external physical threat, and for no other reason. According to Murray N. Rothbard:

> The libertarian creed rests upon one central axiom: that no man or group of men may aggress against the person or property of anyone else. This may be called the "non-aggression axiom." "Aggression" is defined as the initiation of the use or threat of physical violence against the person or property of anyone else. Aggression is therefore synonymous with invasion.
>
> If no man may aggress against another, if, in short, everyone has the absolute right to be "free" from aggression, then this at once implies that the libertarian stands foursquare for what are generally known as "civil liberties": the freedom to speak, publish, assemble, and to engage in . . . "victimless crimes."[3]

I shall contend that emigration, migration, and immigration all fall under the rubric of "victimless crime." That is, not a one of these three *per se* violates the non-aggression axiom.[4] Therefore, at least for the libertarian, no restrictions or prohibitions whatsoever should be placed in the path of these essentially peaceful activities.

Before considering the specifics, let us clear the decks of one possible misconception: that the libertarian can be a "moderate"

---

[3]Murray N. Rothbard, *For a New Liberty* (New York: Macmillan, 1978), p. 23. For another definitive vision of libertarianism, see Hans-Hermann Hoppe, *The Economics and Ethics of Private Property: Studies in Political Economy and Philosophy* (Boston: Kluwer, 1993).

[4]For a listing of dozens of other archetypes, none of which necessarily violate the libertarian non-aggression axiom, and all of which are reviled by many, see Walter Block, *Defending the Undefendable* (New York: Fox and Wilkes, [1976] 1985).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

on this question, advocating fully opening the borders at some times, completely closing them on other occasions, and leaving them slightly ajar if it seems warranted. Typically, such a policy is advocated based on considerations of assimilation, as in the following statement of "plain-spoken reasoning" by William F. Buckley:

> At various points in history we have opened, and then gently closed, our borders, pending economic and social assimilation. If there is dogged unemployment, there is no manifest need for more labor. If pockets of immigrants are resisting the assimilation that over generations has been the solvent of American citizenship, then energies should go to accosting multiculturalism, rather than encouraging its increase.[5]

Such a position, whatever its merits on other grounds, is simply not available to the libertarian, who requires consistency with Rothbard's non-aggression axiom. Pragmatic matters such as assimilation can form no part of the libertarian world view. The only issue is: do emigration, migration, and immigration constitute, *per se*, a physical trespass against person and property or a threat thereof? If so, then libertarians must oppose them totally; if not, they must oppose any and all limits to them. There does not appear to be any middle ground or compromise position consistent with libertarianism.[6] That is, if the transfer of peoples does indeed constitute a violation of the libertarian axiom, as does murder, rape, theft, etc., then it must be completely prohibited. There can be no countenance for *partially* restricted immigration,[7] any more than for *partially* restricted murder. Buckley-type pragmatism applied to murder would mean that in some decades there should be no law at all opposing this heinous act, in other epochs we should very strictly prohibit it, and that in still other time periods we should adopt a more moderate position, perhaps allowing only a certain number of murders. Perhaps our choice should be dictated by life expectancy, or numbers of elderly people in the population.[8] Say what you will about the

---

[5]William F. Buckley, "Immigration Advocates Resist Reasoning," *Conservative Chronicle* (February 12, 1997): 20.

[6]For the view that at least on some issues the libertarian position occupies a middle ground, or compromise, see Walter Block, "Compromising the Uncompromisable: the Austrian Golden Mean," *Cultural Dynamics* 9, no. 2 (July 1997): 211–38.

[7]We are here implicitly assuming that the migrant will find a private property owner who is willing to take him in. Below, we subject this assumption to intensive examination.

[8]This would constitute a "modest proposal" for solving the Ponzi scheme elements of social security bankruptcy. We could hold "open season" on retirees, while protecting the lives of those still in the labor force.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

pragmatic benefits of this idea, it clearly falls outside the purview of libertarians.

Rothbard makes much the same point in another context:

> "Economic power," then, is simply the right under freedom to refuse to make an exchange. Every man has this power. Every man has the same right to refuse to make a preferred exchange.
>
> Now, it should become evident that the "middle-of-the-road" statist, who concedes the evil of violence but adds that the violence of government is sometimes necessary to counteract the "private coercion of economic power," is caught in an impossible contradiction. A refuses to make an exchange with B. What are we to say, or what is the government to do, if B brandishes a gun and orders A to make the exchange? This is the crucial question. There are only two positions we may take on the matter: *either* that B is committing violence and should be stopped at once, *or* that B is perfectly justified in taking this step because he is simply "counteracting the subtle coercion" of economic power wielded by A. Either the defense agency must rush to the defense of A, or it deliberately refuses to do so, perhaps aiding B (or doing B's work for him). *There is no middle ground!*[9]

The identical situation exists with regard to migration. Here, A, the migrant, is peacefully coming to visit his friend or relative in another land.[10] Whereupon B pounces on him, and forces him at the point of a gun to return to his place of origin. What should the libertarian defense agency do? Again, *there is no middle ground!* It must either support A or B. It cannot possibly do both.

The legality of migration is an all-or-none matter: either migration is *per se* legitimate, in which case it would be improper to interfere with it in any way, or it is *per se* invasive, in which case it should be prohibited, totally and comprehensively, just as in the case of murder and rape.

EMIGRATION

Ponder the barriers to emigration which long existed behind the Iron Curtain, and still do for countries such as North Korea and Cuba. Civilized people of all ideological dispositions regard

---

[9]Murray N. Rothbard, *Power and Market: Government and the Economy* (Menlo Park, Calif.: Institute for Humane Studies, 1977), p. 229, emphasis in original.

[10]For how long? Who knows? Whose business is it anyway?

LICENSED TO MWI.ORG
ELECTRONIC REPRODUCTION PROHIBITED

these as barbarous relics from the past—harking back to a time of serfdom, or actual slavery. A country which will not allow its citizens to leave is nothing better than a vast jail, no matter how many Olympic medals the prisoners may have won, no matter how many Sputniks the inmates may have launched.

Such a stark statement can be made on the basis of the libertarian philosophy. For here, people own themselves absolutely. It is a moral outrage for them to be enslaved by the state. Restrictions are sometimes justified on the grounds that would-be emigrants have benefitted from public education, provided free of charge by the government. They are compelled to pay exit fees, or are prohibited from leaving outright, on the ground that they will take with them information given to them by the state, which continues to be "its" property. Since there is no way to leave without taking this education with them, the emigrants are prohibited from departing. We in the west, for the most part, see this merely as an excuse for a quasi-slave system—as an attempt to cover unlawful imprisonment with a thin veneer of legitimacy and property rights. But no state provides education to the populace "for free." On the contrary, schooling is financed from funds taken from the people in the first place, though taxes.

Even if, somehow, the government gave education to the citizens for free, it would still not follow that governments are entitled to enslave them on this ground. No, the only slavery even arguably compatible with libertarianism would be that agreed to in advance by freely contracting parties—a sort of "indentured servitude" for life. But no such contracts have ever been signed. Thus, there is no warrant to assume that the hapless people suffering from Communism or Nazism were treated appropriately,[11] even under our heroic assumption of "free" education.

As a matter of fact, one may interpret the curious historical institution of slavery[12] along these lines. That is, chattel slavery is but a special instance of the lack of freedom to emigrate. What makes it slavery is that the slave cannot quit, or emigrate from the situation, any time he feels like picking up and leaving. If he could, it would not be slavery but merely a peculiar voluntary employment contract. In other words, the right of emigration is so important that its absence implies outright slavery.

---

[11]For another analysis of the view that state actions can be justified on the basis of a "contract" which was never signed, see Lysander Spooner, *No Treason: The Constitution of No Authority* (Larkspur, Colo.: Ralph Myles, [1870] 1966).

[12]See Jeffrey Rogers Hummel, *Emancipating Slaves, Enslaving Free Men: A History of the American Civil War* (Chicago: Open Court, 1996), for a thorough-going analysis of slavery.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

There is a further connection between emigration and immigration. Suppose the world contained one totalitarian country, while the rest of them were "free." If all other nations enact immigration prohibitions, this is tantamount to the imposition of emigration restrictions by the government of the one country from which people wish to flee. While it is a basic implication of the libertarian non-aggression axiom that people have a right to emigrate, at least one other nation must allow them to immigrate, or the exercise of this right will become impossible as a practical matter.

MIGRATION

If there is to be a third category, migration, distinct from immigration and emigration, then it must be confined to that aspect of travel during which a person is neither under the control of the host country (emigration) nor the receiving one (immigration). It would apply to the ocean, after the migrant has vacated the country of origin, e.g., Cuba, or traveled to that small no-man's land or demilitarized zone between such places as North and South Korea.

There is no real difficulty for the libertarian in such a case. Shooting down a fleeing family in cold blood, no matter which nation is doing the killing, is murder. Should this have to be said, that murder is contrary to the libertarian axiom of non-aggression? Within limits, it matters not one whit why the persons involved are escaping—whether for economic reasons, or to have a freer life, or because they are tired of totalitarianism.[13]

IMMIGRATION

A moment's reflection will convince any disinterested party that immigration is not necessarily invasive. Immigration consists of no more than moving to a foreign country. For the purist libertarian, national boundaries are only lines on a map, demarcating one "country" from another; there is no such thing as a legitimate nation-state. According to Rothbard:

> [T]here can be no such thing as an "international trade" problem. For nations might then possibly continue as

[13]Of course, if they are themselves murderers, and are escaping to another country in order to avoid paying the just penalties for their foul deeds, or are escaping with private property stolen from its rightful owners, this is an entirely different matter. No longer do we have here innocent people merely attempting to better their own lives. Now, the "migrants" are themselves the criminals.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> cultural expressions, but not as economically meaningful units. Since there would be neither trade nor other barriers between nations nor currency differences, "international trade" would become a mere appendage to a general study of interspatial trade. It would not matter whether the trade was within or outside a nation.[14]

Therefore, immigration across national boundaries should be analyzed in an identical manner to that migration which takes place within a country. If it is non-invasive for Jones to change his locale from one place in Misesania to another in that country, then it cannot be invasive for him to move from Rothbardania to Misesania. Alternatively, if migration across international borders is somehow illegitimate, this should apply to the domestic variety as well.

As long as the immigrant moves to a piece of private property whose owner is willing to take him in (maybe for a fee), there can be nothing untoward about such a transaction. This, along with all other capitalist acts between consenting adults, must be considered valid in the libertarian world. Note that there is no freedom of movement of the person *per se*. This is always subject to the willingness of property owners in the host nation to accept the immigrant onto their land. Rothbard explains:

> [T]he private ownership of all streets would resolve the problem of the "human right" to freedom of immigration. There is no question about the fact the current immigration barriers restrict, not so much a "human right" to immigrate, but the right of property owners to rent or sell property to immigrants. There can be no human right to immigrate, for on *whose* property does someone else have the right to trample? In short, if "Primus" wishes to migrate now from some other country to the United States, we cannot say that he has the absolute right to immigrate to this land area; for what of those property owners who don't *want* him on their property? On the other hand, there may be, and undoubtedly are, other property owners who would jump at the chance to rent or sell property to Primus, and the current laws now invade their property rights by preventing them from doing so.[15]

It is almost a certainty that there will in fact always be "other property owners who would jump at the chance to rent or

---

[14]Murray N. Rothbard, *Man, Economy, and State: A Treatise on Economic Principles* (Auburn, Ala.: Ludwig von Mises Institute, [1962] 1993), p. 550. See also Rothbard, *For A New Liberty*; and Ludwig von Mises, *Nation, State, and Economy*, Leland Yeager, trans. (New York: New York University Press, 1983).

[15]Murray N. Rothbard, *The Ethics of Liberty* (Atlantic Highlands, N.J.: Humanities Press, 1982), p. 119.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sell property to" immigrants. If this is not obvious based on common sense experience, the economics of discrimination suggests no other possible conclusion.[16] If there are many owners who refuse to rent or sell to immigrants, the price the latter will have to pay will be high. But this will tend to induce those landowners on the margin to agree to accept immigrants. It must be the rare case indeed where in a country of millions of property owners there is not a single one willing to accept newcomers, even at the very highest prices they are willing to pay. In such a rare case, all those who adhere to libertarianism must indeed unite in opposing immigration,[17] for, with Rothbard, there is no one "on whose property . . . someone else ha[s] the right to trample."

But this is a theoretical curiosity, not something relevant to reality, or to public policy analysis. In real world countries, certainly including the U.S., there can be found thousands, if not millions, of landowners willing to sell or rent space to people from all parts of the globe, no matter how obscure. For example, restaurateurs specializing in the foods common to foreign lands may wish to hire authentic foreign-born cooks. As a practical matter, it is inconceivable that some citizen property owners, whose families themselves immigrated in the past, would not be interested in taking in their countrymen, particularly at the very high remuneration available if most landlords do not wish to deal with the immigrants.

The case is equally clear for allowing immigrants to settle on unowned land. When there is virgin territory, there is no legitimate reason for immigrants (or domestic citizens) to be prevented from bringing it into fruitful production. States Rothbard: "*Everyone* should have the right to appropriate as his property previously unowned land or other resources."[18] "Everyone," presumably, includes immigrants as well as citizens or residents of the home country.

Mises, from a utilitarian rather than a natural-rights libertarian position, considered immigration an important element of freedom and progress:

---

[16]On this topic, see Gary Becker, *The Economics of Discrimination* (Chicago: University of Chicago Press, 1957); Thomas Sowell, *Race and Economics* (New York: Longman, 1975); idem, *The Economics and Politics of Race: An International Perspective* (New York: Morrow, 1983).

[17]That is, opposing it totally, as private property rights violations. However, even in this case there would be no need for a law prohibiting immigration, only one banning trespass in general.

[18]Rothbard, *Ethics of Liberty*, p. 240, emphasis added. See also Hoppe, *Economics and Ethics of Private Property*.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> The principles of freedom, which have gradually been gaining ground everywhere since the eighteenth century, gave people freedom of movement. The growing security of law facilitates capital movements, improvement of transportation facilities, and the location of production away from the points of consumption. That coincides—not by chance—with a great revolution in the entire technique of production and with drawing the entire earth's surface into world trade. The world is gradually approaching a condition of free movement of persons and capital goods.[19]

One last point under this topic. If immigration were *per se* invasive, then, perhaps with the exception of Indians,[20] as Americans are all either immigrants or descended from them, our occupancy of this country would be legally questionable. Since no advocate of immigration restrictions has ever expressed any such reservations, there is a problem of logical consistency here.

OBJECTIONS

Let us now deal with several possible objections to the foregoing.

Allowing unrestricted immigration is equivalent to allowing the invasion of a foreign army

States Mises:

> Under present conditions, the adoption of a policy of outright laissez faire and laissez passer on the part of the civilized nations of the West would be equivalent to an unconditional surrender to the totalitarian nations. Take, for instance, the case of migration barriers. Unrestrictedly opening the doors of the Americas, of Australia, and of Western Europe to immigrants would today be equivalent to opening the doors to the vanguards of the armies of Germany, Italy, and Japan.[21]

It must be remembered that these words were first published in 1944, and written some time before that; hence, perhaps, the fear of military invasion. But this appears to be an idiosyncratic use of language. No advocate of laissez-faire capitalism ever conceived of this position as anything akin to total pacifism. Unrestricted immigration, in this perspective, does not at all include

---

[19]Mises, *Nation, State, and Economy*, p. 58.

[20]But the ancestors of native peoples, too, had to come from somewhere. If so, then they, too, are at least indirectly "guilty" of the crime of immigration.

[21]Ludwig von Mises, *Omnipotent Government: The Rise of the Total State and Total War* (New Rochelle, N.Y.: Arlington House, 1969), p. 10.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

allowing invading armies *carte blanche* access to the home country.[22] On the contrary, it refers to peaceful settlement therein. It is perfectly consistent with the libertarian philosophy to oppose with the utmost determination an invading army, while throwing completely open the doors to peaceful settlers.

Unrestricted immigration will create or exacerbate unemployment

This objection illustrates nothing so much as economic illiteracy. It assumes that there is only so much work in a nation to be done, and that if immigrants do more of it, there will be just that much left for present occupants. If it were true, any and every technological advance would prove a dire threat to our economy.[23] For example, the pick and shovel, to say nothing of the truck, can do the work of thousands of people, compared to tea spoons, or, better yet, bare fingernails. Are we to rid ourselves of these technological advances in order to improve our economy, and combat unemployment? Hardly.

Unrestricted immigration will reduce the real wages of the workers already in residence

This contention, more perhaps than any other, explains the vicious opposition to immigration traditionally displayed by union leaders such as Cesar Chavez.[24] This charge, however, cannot be denied; it is true that under some circumstances, workers in the receiving country (and capital and land in the country or origin), will lose out.[25] Conversely, capitalists and land owners in the receiving country gain from the cooperation of a larger supply of labor, and workers remaining in the country of origin gain from the increased local scarcity of their services.

The owner of any resource, labor or any other, tends to be subject to a loss in wealth, at least relatively, when confronted by increasing supplies of a substitute factor of production. It is possible that these losses as a producer will be more than offset by gains as a consumer (due to the lower prices of final goods), but this need not at all be the case. It is also possible for an individual domestic worker's loss in wages to be more than offset by

---

[22]This would apply, also, to carriers of communicable diseases. They are in effect, if not by intention, an "invading army" in that if they are allowed in the recipient country, they will spread their germs to innocent people.

[23]See Henry Hazlitt, *Economics in One Lesson* (New York: Arlington House, 1979); Mises, *Omnipotent Government*, p. 105; and Julian Simon, *The Economic Consequences of Immigration* (Oxford: Basil Blackwell, 1989).

[24]See Ira Mehlman, "Funding Fraud," *National Review* (March 24, 1997): 30.

[25]See Ludwig von Mises, *Human Action*, 3rd rev. ed. (Chicago: Regnery, 1966), pp. 377, 627.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

gains in his invested wealth (e.g., he may have pension funds invested in stock ownership), but again, this need not be the case.

But as Hoppe has shown, people have the right only to the physical aspects of their property, not to its value.[26] For the latter is determined on the market by the human actions of thousands of people, exercising their demand for and providing supplies of commodities. To say that X has a right to the value of his property is thus to say that he has a right to make economic decisions for these thousands of other people whose choices determine the value of his property, a manifest absurdity.

Unrestricted immigration will increase crime

There is no doubt that were the U.S. to open its doors to all and sundry, some number of criminals would take advantage of this opportunity. There are good "pickings" to be had here, after all.

But this is really an indictment of our criminal justice system,[27] not of open immigration. Nowadays, liberals wax eloquent about the cost of crime. The bill for incarcerating a criminal exceeds that of tuition at our most prestigious universities. When one imagines hordes of immigrants coming to this country, committing crimes, and then putting additional strain on our very limited supply of jails, it is easy to contemplate the closing of the borders.

In actuality, a libertarian society serious about crime would not experience so much of it in the first place. For one thing, it would legalize drugs. It is the prohibition, not the use of drugs, that leads to criminal behavior. The very high prices of illegal drugs which are due to prohibition, and are not intrinsic to addictive substances themselves, serve as a magnet for the underworld. When alcohol was prohibited, it was associated with criminal gang activity; when it was legalized, this connection was cut asunder.[28]

---

[26]Hoppe, *Economics and Ethics of Private Property.*

[27]See Rothbard, *Power and Market*; also idem, *For A New Liberty*, pp. 215–41.

[28]For more on this point, see Walter Block, "Drug Prohibition: A Legal and Economic Analysis," *Journal of Business Ethics* 12 (1993): 107–18; idem, "Drug Prohibition, Individual Virtue, and Positive Economics," *Review of Political Economy* 8, no. 4 (October 1996): 433–36; David Boaz, ed., *The Crisis in Drug Prohibition* (Washington, D.C.: Cato Institute, 1990); Milton Friedman, "An Open Letter to Bill Bennett," *Wall Street Journal* (September 7, 1989); Ronald Hamowy, ed., *Dealing With Drugs: Consequences of Government Control* (San Francisco: Pacific Institute, 1987); Thomas Szasz, *Ceremonial Chemistry: The Ritual Persecution of Drugs, Addicts, and Pushers*, rev. ed. (Holmes Beach Fl.: Learning Publications, 1985); and Mark Thornton, *The Economics of Prohibition* (Salt Lake City: University of Utah Press, 1991).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A libertarian society, moreover, would get tougher on genuine criminals. There would be no more cozy jails with color TVs, air conditioning, or recreation rooms. If indentured servitude for convicts were brought back, prisons could be run by private enterprise. Instead of draining taxpayers of vast amounts of money to house inmates, they could turn a profit.

Under such a system, apart from the undoubted harm they would perpetrate on their victims, immigrants who become criminals would not cost "society" a dime. On the contrary, through their sweat and tears they could be forced to make a positive contribution.

Unrestricted immigration will promote welfarism

The argument here is that immigrants come to our shores not to breathe the heady wine of economic freedom, but to avail themselves of our stupendously generous welfare system. This is not so much a quarrel with immigration as it is with welfare. Says Hoppe in this context:

> It would also be wrongheaded to attack the case for free immigration by pointing out that because of the existence of a welfare state, immigration has become, to a significant extent, the immigration of welfare bums, who, even if the United States is below the optimal population point, do not increase but rather decrease average living standards. For this is not an argument against immigration but rather against the welfare state. To be sure, the welfare state should be destroyed, root and branch. However, the problems of immigration and welfare are analytically distinct, and they must be treated accordingly.[29]

Let it be said loudly and clearly: end welfare for all people, but at the very least for immigrants and their descendants, and by definition immigrants will no longer be attracted to our shores in order to receive such funds.

But there is another problem with this line of argument: it proves far too much. For if immigrants are to be prohibited from entry into this country on the ground that they *might in the future* go on the welfare rolls, and thus in effect steal from the long-suffering taxpayer, Pandora's box will be flung wide open. If we can physically invade people for what they *might* do in the future,[30] the sky is the limit. Surely we can engage in preventive

---

[29]Hans-Hermann Hoppe, "Free Immigration or Forced Integration," *Chronicles* 19, no. 7 (July 1995): 25.

[30]Make no mistake about it: an immigration barrier is a physical invasion of innocent people. Here comes Mr. X, say, from Turkey, peaceably going about his

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

detention of all teenaged males—the guilty along with the innocent—on the ground that this cohort commits more than its proportionate share of crimes. But surely this would be a great injustice.

And what about child bearing for the present occupants of this great country of ours? It cannot be denied that any children born today might, some years into the future, avail themselves of our welfare program. But if we can preclude the entry of immigrants on this ground, this goes as well for having babies. Becoming pregnant ought to be a crime, on these grounds. At least the Chinese Communists limited people to one child per couple. If opponents of totally open immigration on the ground that they might become welfare recipients are logically consistent, they would have to oppose any childbearing, whatever.[31]

Legally unrestricted immigration is indeed the libertarian position, the only possible libertarian position, but it should not be implemented until the every other plank in this program is first put into effect

This is a very powerful objection to the argument being presented here. For suppose unlimited immigration is made the order of the day while minimum wages, unions, welfare, and a law code soft on criminals are still in place in the host country. Then, it might well be maintained, the host nation would be subjected to increased crime, welfarism, and unemployment. An open-door policy would imply not economic freedom, but forced integration with all the dregs of the world with enough money to reach our shores.

However strong this objection may be, Rothbard, albeit arguing in another context, provides us with the definitive rebuttal.[32] Rothbard noted that Alan Greenspan, in his youth, was a strong advocate of a gold standard,[33] but as head of the Fed, never from

---

business of settling on the land of his cousin in Arkansas, for example. Yet, before he can get there, the minions of the government interfere with his peaceful right of passage, and either jail him or forcibly return him to his country of origin.

[31]One might argue that the rich could escape this implication, by, say, posting a bond so that their children never need become welfare recipients. This might or might not work, depending upon such matters as future inflation, productivity, and precisely how these bonds are financed. In any case, however, it would also be possible to eliminate this argument by merely requiring that all *immigrants* sign an agreement never to go on welfare, and/or by posting a bond so that *their* children never need become welfare recipients.

[32]Murray N. Rothbard, "Alan Greenspan: A Minority Report on the New Fed Chairman," *The Free Market* (August 1987).

[33]Alan Greenspan, "Gold and Economic Freedom," in *Capitalism: The Unknown Ideal*, Ayn Rand, ed., (New York: Signet: 1967), pp. 96–101 (reprinted from *The Objectivist*, 1966).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

him a word of this has been heard.[34] Has Greenspan changed his mind? Or is he a total hypocrite? In Rothbard's view, neither is true. On the contrary, Greenspan *does* favor laissez-faire capitalism and gold, but only on a high philosophical level where he doesn't have to *do* anything about it. In contrast, he does not champion it as a practical matter, for then he would be called upon to show some evidence of his beliefs. Says Rothbard:

> There is one thing, however, that makes Greenspan unique, and that sets him off from (the) Establishment. . . . And that is that he is a follower of Ayn Rand, and therefore "philosophically" believes in laissez faire and even the gold standard. But as *The New York Times* and other important media hastened to assure us, Alan only believes in laissez faire "on the high philosophical level." In *practice* in the policies he advocates, he is a centrist like everyone else because he is a "pragmatist." . . .[35]
>
> Thus, Greenspan is only in favor of the gold standard if all conditions are right: if the budget is balanced, trade is free, inflation is licked, everyone has the right philosophy, etc. In the same way, he might say he only favors free trade if all conditions are right: if the budget is balanced, unions are weak, we have a gold standard, the right philosophy, etc. In short, *never* are one's "high philosophical principles" applied to one's actions. It becomes almost piquant for the Establishment to have this man in its camp.

This, it must be acknowledged, is a devastating critique of the Greenspan position. And, if this be so, we cannot avoid the conclusion that the same argument constitutes a knock-out blow against the defense of immigration restrictions on the ground that every other aspect of full free enterprise must be reached.

There is a certain pattern underlying the position of these "postponement libertarians," the paleo-libertarians who favor full, free, open, and unrestricted immigration—but only after the entire libertarian vision has been attained. The underlying coherence of this perspective is that we should, whenever possible, attempt to achieve the same results now, under statism, as would ensue were we to be living in the fully free society.

Take the case of the bum in the library. What, if anything, should be done about him? If this is a private library, then the plumb-line or pure libertarian would agree fully with his paleo

[34]Although see William R. Bradford, "Greenspan: Deep-Cover Radical for Capitalism?" *Liberty* 11, no. 2, (November 1997), p. 40.

[35]Rothbard, "Alan Greenspan," p. 3.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cousin: throw the bum out! More specifically, the law should *allow* the owner of the library to forcibly evict such a person, if need be, at his own discretion. Cognizance would be taken of the fact that if the proprietor allowed this smelly person to occupy his premises, he would soon be forced into bankruptcy, as normal paying customers would avoid his establishment like the plague.

But what if it is a public library? Here, the paleos and their libertarian colleagues part company. The latter would argue that the public libraries are *per se* illegitimate. As such, they are akin to an unowned good. Any occupant has as much right to them as any other. If we are in a revolutionary state of war, then the first homesteader may seize control. But if not, as at present, then, given "just war" considerations, any reasonable interference with public property would be legitimate.[36]

The paleos or postponement libertarians take a sharply divergent view: one should treat these libraries in as close an approximation as possible to how they would be used in the fully free society. Since, on that happy day, the overwhelmingly likely scenario is that they will be owned by a profit maximizer who will have a "no bums" policy,[37] this is exactly how the public library should be treated right now. Namely, what we should do to the bum in the public library today is exactly what would be done to him by the private owner: kick him out.

There are difficulties with this stance. First, as we have already seen, it is extremely likely that in the fully free society, virtually all immigrants would be taken in by a landowner in the host country. Therefore, if the paleos are to remain consistent with their own position, they should eschew all legislated immigration barriers.

Secondly, and even apart from this consideration, the postponement libertarian perspective is vulnerable to rebuttal by *reductio ad absurdum*. If we should not allow unrestricted immigration until we have achieved the free society, but instead should curtail immigration in an effort to approximate what would take place under a fully libertarian society, let us apply this insight to other realms of controversy.

---

[36]One could "stink up" the library with unwashed body odor, or leave litter around in it, or "liberate" some books, but one could not plant land mines on the premises to blow up innocent library users.

[37]Consider the Body Shop, or Ben and Jerry's Ice Cream, or any other "ethically oriented" company. Even they operate in this manner. That is, they may donate a part of their profits to unsavory enterprises (from a libertarian point of view), but they presumably do not employ "bum" types of people in the manufacture of their products.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Public schooling is a disaster. Certainly, in the present journal, there is no need to document such a claim.[38] That being the case, the libertarian position is clear: get rid of public education, forthwith, even if we have not attained complete liberty in other sectors of society.

But those who would be true to the paleo-libertarian position on immigration cannot avail themselves of this conclusion. Instead, they would have to ask: what would education be like in the free society? They would then have to endeavor to treat public schools as much like that as possible.[39] But if there is one thing that is clear, it is that in the free society the educational industry, like all others, would allow competition. How, then, to apply this principle? Simple. Embrace educational vouchers. Get in harness with those such as Milton Friedman who have long advocated this form of competition for the public schools.[40]

Here is a second example. The U.S. welfare policy is a disaster. The libertarian position is once again crystal clear: abolish welfare forthwith, no matter what the status of the remainder of the economy.[41] But the paleo or postponement libertarians are once again precluded from embracing so clear, just, and simple a solution. If they are to remain true to their immigration position, they will have to reason as follows: the problem with welfare as presently constituted is that it has a built-in marginal tax rate of 100%. If the dole is now $500 per week and the recipient earns a salary of $100, this payment will be reduced to $400, leaving the welfare "client" no better off financially. But thanks to Milton

---

[38]But for a curious and very limited defense of public education, see Michael Levin, *Why Race Matters* (Westport, Conn.: Praeger, 1977).

[39]The postponement libertarians could not advocate privatizing all public schools since the remainder of the economy is not yet fully free. They are limited to treating public property in manner as similar as possible to how it would be used in the free society.

[40]Milton Friedman, *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962).

[41]True, it is harsh on the poor to totally eliminate welfare while the minimum wage, anti-peddler laws, etc., are still in effect. But two wrongs do not make a right. Just because the state victimizes the poor by making it illegal, and thus difficult, to earn money, does not make it right for government to injure a second group of people, taxpayers, and demand money from them at the point of a gun so as to transfer some of their funds to the first set of victims. In any case, were welfare to be totally eliminated right now, this would set up irresistible forces to end such employment barriers. This is analogous to the case for eliminating immigration restrictions on behalf of breaking up welfare. If hordes of poor foreigners poured onto our shores in order to take advantage of generous welfare provisions, that would immeasurably hasten the day that they were eliminated.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Friedman's negative income tax plan,[42] this problem can be overcome.[43]

Unrestricted immigration will assault the institutions which make a free society possible in the first place

This, too, is a very powerful objection, for it cannot be denied that many of the people who might enter the U.S. under an open-door policy come from parts of the world where freedom is nonexistent, unheard of, or denigrated.

Nevertheless, the case for free immigration is not without a response. First of all, the U.S. is no longer the freest country in the world, if it ever was; there are several others which beat us out for this honorific.[44] Thus, not all immigrants are likely to be less conducive to freedom than are we.[45] Second, there have been immigrants in our history who have improved our freedom immeasurably. The names Ludwig von Mises, Friedrich A. Hayek, Israel Kirzner, William Hutt, Ludwig Lachmann, Hans Hoppe, Yuri Maltsev, Kurt Leube, James Ahiakpor, George Ayittey, Nathaniel Branden, Barbara Branden, Sam Konkin, Harry Watson, David Henderson, and Ayn Rand leap immediately to mind in this context. A closed-door policy in the past might well have made it impossible for these people to contribute to our society. And this is to say nothing of all the children and grandchildren of immigrants who have made significant contributions. How could it be otherwise, given that virtually all of us are "the children and grandchildren of immigrants"?

Third, just how, precisely, is it contemplated that the new immigrants will bring in to disrepute the mores, habits, and institutions which undergird our liberties? The most likely method is through voting. That is, hordes of people from other continents will come to our shores, settle down, and then vote for Nazism,

---

[42]Friedman, *Capitalism and Freedom.*

[43]Let it be remembered that each of these examples is a *reductio* of the paleo position on immigration. I certainly do not favor school vouchers or the negative income tax. My claim is only that if the postponement libertarians remain true to their views on immigration, logic will force them to embrace these latter positions as well.

[44]See James Gwartney, Robert Lawson, and Walter Block, *Economic Freedom of the World, 1975–1995* (Vancouver, B.C.: Fraser Institute, 1996).

[45]The restrictionist might reply: let us limit immigration to those countries which are actually freer than our own. But people who come to the U.S. from totalitarian countries are likely to do so because they *dislike* such regimes. Many of the strongest supporters of freedom in the U.S. are first and second generation Polish-Americans, Lithuanian-Americans, Cuban-Americans, etc. In any case, this is a mere empirical issue, unworthy, perhaps, of even noting. Underlying it, at least for the libertarian, is that immigration is a victimless crime, and should no more be legally banned than should prostitution or drug use.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Communism, welfare statism, or some such. It cannot be rationally denied that this is a plausible scenario. The only problem with it is that it, again, assumes a real world situation (one with a welfare state, a pro-criminal penal system, etc.) instead of the ideal libertarian one. It is crucial that this not be done, however. For if it is, we conflate these other issues with that of immigration; we are seemingly arguing against an open-door policy, when actually, our real problem is with welfarism, criminal coddling, etc. If we are to generate a *libertarian* theory of immigration, we must argue in a *ceteris paribus* manner.[46]

It is the same in this case.[47] The real difficulty here concerns promiscuous voting, not immigrants who might vote "incorrectly." The problem, even apart from new entrants to our country, is that those who are already citizens now have the "right" to vote on, not whether or not, but how much of other people's property they can legally steal through the ballot box. *This* is the real threat to liberty. In a free society, all the wrong-thinking immigrants in the world would be powerless to overturn (what is left of) our free institutions, for there would be no possibility of voting to seize other people's property.

But suppose these foreign hordes enter our pure libertarian society where no such decisions are even allowed to be politically contemplated, let alone enacted, and then proceed to do just that. After all, at one time in our history we were far more free than we are now. It was people—many of them, it must be conceded, immigrants—who undermined our free institutions.

One answer is that we never had a fully libertarian society. Had we, the courts would have ruled against any property-grabbing initiative or referendum. The police would have dealt firmly with any property-destroying or denigrating riots engaged in by Communist or Nazi or welfarist immigrants. On the assumption that these foreigners were civilians, not an actual invading army, there seems little reason to believe they would have succeeded in their nefarious "foreign" schemes.

But suppose they did, somehow, overturn us, in a fully peaceful manner (perhaps through the sheer eloquence of their oratory), so that no physical sanctions against them would be compatible with libertarianism. Then what? Then we have a division

---

[46]Rothbard, in *For A New Liberty*, pp. 238–39, argues in this way when he refutes the objection of the Russian menace to a stateless U.S. society.

[47]This objection is but a variation of the first one considered, above. Only now instead of bearing rifles, the invading "army" will be issued votes, as soon as they have been naturalized.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

between the libertarian axiom of non-aggression and what might considered, from the pragmatic or utilitarian point of view, to be the good society.

But this should occasion no surprise or any embarrassment for the libertarian position. If you pack enough into your assumptions, you can overturn any principle, even an entirely appropriate and valid one such as the libertarian non-aggression axiom. For example, suppose that the all-powerful "Martians" threaten that unless we kill innocent person A, they will blow up the world. Surely, then, we would be presented with a stark choice indeed: violate the libertarian basic premise, or bring forth the end to all human life. One response might be "Justice though the heavens fall!" Another might be to say that the libertarian axiom is pro-life in all but such contrived situations. Or, to treat more realistic scenarios where utilitarianism and libertarianism might diverge, there is the fact that if we outlawed homosexuality, or engaged in preventive detention of male teenagers, we would undoubtedly reduce the incidence of AIDS and crime, respectively. Happily, we shrink back from such perversions of justice, because of elemental decency, e.g., adherence to the libertarian non-aggression axiom. Should we do any less in the case of immigration? Certainly not.

CONCLUSION

If one is against immigration, there are ways to reduce it which are fully compatible with libertarianism. For one thing, unilaterally declare full free trade with all nations. Trade in goods, services, and capital is an economic substitute for immigration. That is, there are two ways to right any imbalance between capital and labor: bring labor to the areas where population is below its optimum size (immigration), and bring capital and goods to the areas where they are below their optimum sizes (free trade in capital and goods). As the latter are typically far cheaper than the former, a regime of full free trade would eliminate much of the economic incentive toward migration.

Are libertarians moderates or extremists on the issues of emigration, migration, and immigration? The libertarian position on migration does *not* constitute a compromise in that it is indubitably an all-or-none proposition: either migration is totally legitimate, in which case there should be no interferences with it whatsoever, or it is a violation of the non-aggression axiom, in which case it should be banned, fully. I have argued in this paper that the former position is the only correct one.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

But libertarianism constitutes a compromise position on this issue in two other senses. First, immigration is allowed if and only if there are property owners willing to sponsor (presumably for a fee, but not necessarily so) the new entrants, and not otherwise. Second, there are people on both right and left who oppose borders totally open to peaceful settlement (Chavez, Buckley), and libertarians find themselves safely on the other side of this unholy alliance.

For example, states Buckley: "The idea of totally open borders—anybody who wants to can come on in—is the stuff of libertarian fancy, nice for tone poems by such as Ayn Rand, but not very good national policy."[48]

It is not often that viewpoints are so starkly contrasted. We have, at least in this case, achieved real disagreement. It is clear that whatever the merits of this conservative perspective, it is not a libertarian one. Buckley is absolutely correct in labeling this Ayn Rand viewpoint as libertarian—and no one who dissents from it can to that extent call himself a libertarian.

[48]Buckely, "Immigration Advocates Resist Reasoning," p. 20.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A LIBERTARIAN THEORY OF FREE IMMIGRATION

Jesús Huerta de Soto*

The problems posed by free emigration and immigration often lead to confusion among libertarian theorists and lovers of freedom. In the first place, libertarian doctrine traditionally declared itself, with no qualifications or reservations, in favor of the principle of complete freedom of emigration and immigration. This position is based on the recognition that the establishment of political frontiers is a flagrant act of interventionism and institutional coercion on the part of the state, tending to hinder or even prevent the free movement of human beings. Moreover, many border controls and immigration laws emerge as the result of the political action of privileged interest groups, like the trade unions, that aim to restrict the labor supply in order to raise wages artificially. To the extent that these interventionist rules on emigration or immigration hinder or prevent the voluntary agreements reached between the parties (natives and foreigners), there is no doubt that they violate the basic principles which should govern any libertarian society. Furthermore, these interventionist immigration policies particularly affect nationals of foreign countries, since the principle of free movement of people within each state has, in general, been accepted.

However, the coercive action of the state manifests itself not only in hindering the free movement of people, but, at the same time, in forcing the integration of certain groups of people against the wishes of the natives of a given state or region. This coercive action on the part of the state occurs both intranationally and internationally. Thus, within each nation, measures for the integration of certain minorities and groups are often imposed by force, such as anti-discrimination laws, affirmative action legislation, or busing laws. At the international level, many states, either legally or de facto, open up their frontiers to foreigners indiscriminately and allow them to use the public goods (roads,

---

*Jesús Huerta de Soto, considered one of the chief exponents of the Austrian School of Economics in the Spanish-speaking world, was awarded the King Juan Carlos International Prize for Economics in 1983. Since 1985, he has taught political economy at the Complutense University of Madrid. In addition to numerous articles in English and Spanish, he has published a number of books, including *Planes de Pensiones Privados* (1984), *Lecturas de Economía Política* (3 volumes, 1986–87), *Socialismo, cálculo económico y función empresarial* (1992), *Estudios de Economía Política* (1994), and *Dinero, crédito, bancario y ciclos económicos* (1998).

Journal of Libertarian Studies 13:2 (Summer 1998): 187–197

©1998 Center for Libertarian Studies
LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

parks, beaches, government health care, educational, and welfare services) as free riders. In this way, the state generates significant external costs for the natives, who are obliged to accept the forced integration of the foreigners against their wishes or under conditions that they do not desire.[1]

In light of their apparently contradictory nature, the foregoing problems show the importance of isolating their real origin, and piecing together a libertarian theory of immigration that clarifies the principles that should govern the processes of immigration and emigration in a free society.

THE PURE THEORY OF MOVEMENTS OF PERSONS IN A LIBERTARIAN ENVIRONMENT

Like Murray N. Rothbard, we shall begin our analysis assuming the pure anarcho-capitalist model, i.e. the model in which "no land areas, no square footage in the world, shall remain 'public'; every square foot of land area, be they streets, squares, or neighbourhoods, is privatized."[2] It is obvious that none of the problems relating to immigration diagnosed in the preceding paragraph can arise here. The conditions, volume, and duration of personal visits will be those accepted or decided by the parties involved. Thus, even mass movements of labor are conceivable, if the employers in question are willing to give work to the immigrants, make it possible for them to find accommodations, arrange and even pay for their journey, etc. In short, the possible contracts between the parties involved will vary greatly, and will admit all the richness that the special characteristics of each case allow.

Under these conditions, migratory flows, far from being harmful to economic and social development, become a driving force for civilization. The argument that an abundance of new labor is necessarily harmful to the working classes of the recipient country is untenable. Human beings are not a uniform production factor, and do not behave in exclusively biological terms in relation to scarce resources, as is the case with rats and other animals, whose population increases always tend to diminish the

---

[1]Murray N. Rothbard himself became aware of the problem posed by forced immigration at international level as follows: "I began to rethink my views on immigration when, as the Soviet Union collapsed, it became clear that ethnic Russians had been encourage to flood into Estonia and Latvia in order to destroy the cultures and languages of these people." See Murray N. Rothbard, "Nations by Consent: Decomposing the Nation-State," *Journal of Libertarian Studies* 11, no. 1 (Fall 1994): 7.

[2]Rothbard "Nations by Consent," p. 6.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

volume of resources available for each individual. On the contrary, human beings are endowed with—and in appropriate institutional settings make use of—an innate creative entrepreneurial capacity. In a dynamic environment, an increase in population allows the continual discovery and exploitation of new opportunities, and thus a growth without limit in the standard of living.

The human mind has a limited capacity to assimilate information (or knowledge), while the social process, driven by entrepreneurship, produces an ever-increasing volume of information. Thus, the advance of civilization requires a continual extension and deepening of the division of labor or, if one prefers, of knowledge. This simply means that the development process implies, from a vertical standpoint, an increasingly deep, specialized, and detailed knowledge, which, in order to extend horizontally, requires an increasing number of human beings, i.e., a constant population growth. Worldwide, this population growth takes place in the long term when births are in excess of deaths. But in the short and medium terms, the only rapid and effective response to the continual adjustments required by economic and social changes is through emigration and immigration flows. These flows permit a quick deepening in the division of labor, thus overcoming the limited capacity of assimilation of each individual human mind by rapidly increasing the number of people involved in social processes.[3] As Hayek rightly says, "we have become civilized by the increase of our numbers, just as civilisation made that increase possible: we can be few and savage, or many and civilized."[4]

The development of cities as centers of wealth and civilization is a clear illustration of this process of the expansion of knowledge made possible by immigration. The continuous depopulation of the countryside and the mass movement of workers toward urban centers, far from impoverishing the cities, promotes their development in a cumulative process that has been one of the most characteristic manifestations of human progress since the Industrial Revolution. Furthermore, emigration and immigration flows, in the libertarian environment we are considering at this point, tend to multiply the variety and diversity of possible solutions to the different problems that emerge. All this favors cultural selection and economic and social advance, since all

---

[3]This process is explained in detail in Jesús Huerta de Soto, *Socialismo, cálculo económico y función empresarial* (Madrid: Unión Editorial, 1992), pp. 80–83.

[4]F.A. Hayek, *The Fatal Conceit: The Errors of Socialism* (Chicago: University of Chicago Press, 1988), p. 133.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

movements take place as a result of voluntary agreements, and, whenever circumstances change, those concerned have the chance to emigrate or move to other enterprises in different geographical locations.[5]

Lastly, we should note the fact that, in a libertarian environment in which all resources and goods which are today considered "public" have been privatized, neither of the negative effects identified above in relation to the cases of forced integration takes place. Anti-discrimination laws, affirmative action laws, or simply the flood of immigrants in the streets or elsewhere would be reduced to a minimum. Movements would always be made using private means of transport, meeting the contractual conditions fixed by their owners, and paying the corresponding market price. Different agencies would specialize in organizing the itineraries and guaranteeing beforehand the necessary access to each means of transport. Likewise, in their own interests, the respective owners would take care to ensure that the travelers passed through the successive means of transport without becoming unwanted guests. This process would continue, with a wealth of social arrangements and juridical and economic institutions that we cannot even imagine today, since the market and entrepreneurial creativity are not allowed to act upon the goods today considered public.[6]

We may, therefore, conclude that emigration and immigration *per se*, subject to the general principles of law in an environment where all resources are private, not only do not pose any problems of forced integration or external costs but, on the contrary, are important leading forces of economic and social devel-

---

[5]It should be recognized, however, that the technological revolution in the computer communications field (Internet, etc.) means that geographical movements are becoming increasingly unnecessary in order to achieve the ends pursued by human action. A good summary of other advantages of emigration and immigration, which acknowledges the importance of the entrepreneurial capacity of emigrants but which, in my opinion, is too much rooted in neoclassical economic analysis, may be found in Julian L. Simon, *Population Matters: People, Resources, Environment, and Immigration* (New Brunswick, N.J.: Transaction Publishers, 1996), pp. 263–303.

[6]We can, however, imagine many of the entrepreneurial solutions that would emerge spontaneously by simply observing, as a point of comparison, how the great problems that were initially posed by the huge flows of tourists that are today so common all over the world were solved. The development of means of transport, the hotel, tourist, and leisure industries, the proliferation of travel agencies, and all kinds of intermediaries that organize and guarantee the trips from start to finish are all institutions which, in a much broader field, would emerge in an anarcho-capitalist state. We should remember that the volume of movements for tourist or business reasons is enormous. Thus, for example, my own country, Spain, receives more than 40 million tourists each year—more than the number of inhabitants of the country!

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

opment and of the wealth and variety of culture and civilization.

PROBLEMS POSED BY COERCIVE STATE INTERVENTION

Our analysis allows us to isolate and identify the real origin of the problems regarding emigration and immigration we have noted. All of them originate from coercive state intervention at different levels. First of all, such intervention raises barriers which hinder or prevent movements which have been voluntarily agreed to. Second, states at the same time insist on imposing various measures of forced integration, either directly (through so-called anti-discrimination and affirmative action laws, etc.), or indirectly, by declaring important territorial areas (streets, squares, parks, etc.) to be public and, therefore, freely accessible to all. As it does not adequately define the relevant property rights of "foreigners" and "natives," state intervention is the cause of all the problems and conflicts that arise today in this whole area.

The coercive action of the state appears at two levels. First, within the borders of each nation-state, the typical problems of forced integration and negative externalities, which inevitably arise whenever privatization of "public" resources is prevented, emerge in their most virulent form. In the second place, state interventionism also operates internationally, by regulating the migratory flows across borders. Here, interventionism has a dual and contradictory aspect. On the one hand, difficulties are put in the way of movements voluntarily agreed to by the parties (natives of a country and foreigners). On the other hand, mass international movements are artificially promoted by the subsidies and advantages offered by the welfare state.

Thus, today, there is often the paradox that those who wish to abide scrupulously by the law find that their movements are not permitted, even if desired by all the parties involved. At the same time, the existence of public goods and the free availability of welfare-state benefits attract, like a magnet, a continuous tide of immigration, mostly illegal, which generates significant conflicts and external costs. All of this encourages xenophobia and promotes subsequent interventionist measures, which further aggravate the problems. Meanwhile, the citizens are unable to identify the true origin of the difficulty; in this climate of confusion, they easily become the victims of demagogy, and end up supporting measures which, in addition to being contradictory, are both inefficient and harmful.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Finally, we should not forget that, at least with regard to the immigration question, present problems are usually more serious at the international than at the intranational level. Within each nation-state, a greater economic, social, and cultural homogenization usually takes place in the course of its historical evolution, which tends to decrease incentives for mass movements. In contrast, internationally, disparities in income are much greater, and the enormous development of communications and means of transport makes it much easier and cheaper to travel between different countries: today, in only a few hours, one can fly from New Delhi to New York, or from Latin America to Spain; in the case of emigration from North Africa to Europe, or from Mexico to the United States, the costs involved are even lower.

SOLUTION OF THE PROBLEMS POSED TODAY BY EMIGRATION AND IMMIGRATION FLOWS

The ideal solution to all these problems would come from the total privatization of the resources which are today considered public, and the disappearance of state intervention at all levels in the area of emigration and immigration. In other words, since the problems we have just identified originate from the harmful effects of coercive state intervention, rather than from emigration or immigration *per se*, the pure anarcho-capitalist system would eliminate the greater part of them.

However, as long as nation-states continue to exist, we must find "procedural" solutions that allow the problems to be solved under present conditions. In this respect, several libertarian theorists have recently been developing a model of secession and decentralization which, since it tends to break down today's heavily centralized nation-states into increasingly smaller political units, favors a decline in state interventionism. This would result from competition among the various states to attract citizens and investments (or avoid their fleeing abroad). The dynamic inherent in this situation would oblige the states to adopt increasingly libertarian policies. In the competition among such ever-smaller and more decentralized states, emigration and immigration flows would play an essential role. Such movements constitute "voting with one's feet." They would oblige the states to dismantle larger and larger parts of the tax-and-intervention apparatus of the current governments. As Hans-Hermann Hoppe writes:

> A world consisting of tens of thousands of distinct countries, regions, and cantons, and of hundreds of thousands of independent free cities such as the present-day

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

> "oddities" of Monaco, Andorra, San Marino, Liechtenstein, Hong Kong, and Singapore, with the resulting greatly increased opportunities for economically motivated migration, would be one of small liberal governments economically integrated through free trade and an international commodity money such as gold. It would be a world of unprecedented economic growth and unheard of prosperity.[7]

However, the identification of both ideal and procedural solutions to these problems does not relieve us of the obligation to study the principles which should govern migratory flows under our present circumstances, where heavily interventionist nation-states exist. These principles should be compatible with libertarian ideals. At the same time, they should take into account the *real, existing* difficulties and contradictions caused by the existence of nation-states. The following section analyzes what these principles should be.

PRINCIPLES ON WHICH PRESENT IMMIGRATION POLICIES SHOULD BE BASED

For several reasons, it is indispensable to establish a set of principles compatible with libertarian ideas that should act as guidelines today. Even if the process of state dismemberment proposed by Rothbard, Hoppe, and many others were to get underway, that would not guarantee that the measures adopted in this area by each decentralized government were correct from a libertarian point of view. As Hoppe himself acknowledges,

> secession solves this problem by letting smaller territories each have their own admission standards and determine independently with whom they will associate on their own territory and with whom they prefer to cooperate from a distance.[8]

However, it is quite possible that these standards or regulations will also prove to be interventionist, preventing movements that were agreed upon voluntarily between natives and foreigners.

Furthermore, as long as states (however small they may be) continue to exist and, within them, "public" streets, roads, and land where property rights are not well defined or protected,

---

[7]Hans-Hermann Hoppe "Small is Beautiful and Efficient: The Case for Secession," *Telos* 107 (Spring 1996): 101. On the same issue, see Rothbard, "Nations by Consent"; also, Jesús Huerta de Soto, "A Theory of Liberal Nationalism," *Il Politico* 60, no. 4: 583–98.

[8]Hoppe, "Small is Beautiful and Efficient," p. 101.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

there may continue to be forced integration or else mass-occupation phenomena like the *fabelas* in Brazil, which generate significant external costs and seriously violate the property rights of the natives. Finally, the proposed solutions must not only lead in the right direction and be compatible with libertarian principles, they must also be "operative," by providing a response to the most pressing problems posed today (for example, emigration across the border between Mexico and the United States, or between North Africa and Europe). In short, a series of rules should be designed to prevent immigration from being used for coercive and interventionist ends in conflict with free interaction between nations and individuals.

The first of these principles is that people who immigrate must do so at their own risk. This means that immigration must in no way be subsidized by the welfare state, i.e., by benefits provided by the government and financed through taxes. These benefits are not only the traditional ones (education, health care, social security, etc.), but the benefits of the free use of publicly owned goods. Such benefits—in the final analysis, compulsory transfers of income from one social group to another—will become a magnet, artificially attracting many immigrants. For the negative effects to materialize, it is sufficient that some (not necessarily all) groups of emigrants, in making their decisions, take into account the welfare benefits they expect to receive. Our argument is, therefore, perfectly compatible with the thesis put forward by some authors, that immigrants contribute to the system a much larger amount than the total value of the welfare benefits they receive (above all in the first few years of their stay in the new country). It is sufficient that certain groups—even if they are in a minority—to consider themselves to be subsidized for a perverse effect of artificial encouragement of immigration to occur, to the detriment of the citizens of the recipient country.

Thus, the first rule is that immigrants have no right to any of the largesse of the welfare state. This will prevent some groups from obtaining subsidies for their movements. In cases where it is considered that the contributions made by the immigrants are higher than the benefits they receive, in order to avoid subjecting them to exploitation by the system, they should at most be obliged to maintain a certain level of coverage, although this should always be contracted, under their own responsibility, through private institutions. In this way, two libertarian objectives would be attained: avoiding the artificial promotion of immigration through state redistribution policies, and a quicker dismantling of state social security programs based on the "pay

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

as you go" principle. This would also encourage the development of private systems based on saving and the capitalization which immigrants would acquire as new clients.[9]

The second principle that should inspire current policy is that all immigrants must be able to demonstrate that they have independent means of support, and thus will not be a burden on the taxpayers. In other words, immigrants must be able to show that they are joining the new social group in order to contribute their labor, technical or entrepreneurial talents, or capital. There are ways to put this principle into practice, although none is perfect. Perhaps the most appropriate is for each immigrant to have, at all times, a native person or private institution that guarantees his financial competence, by giving him an employment contract, acting as the depository of a certain amount of money or investments, or assuming the legal responsibility for caring for him. Logically, market flexibility requires that, within a reasonable period of time, foreign workers who are dismissed or leave their employment voluntarily, should have the chance to seek a new job before they are repatriated. Although this would require the employers to notify the state control body of the recision of the relevant contracts, from an administrative point of view, it would be no more cumbersome or costly than the immigration procedures which currently exist in almost all countries, including my own.

The third essential principle is that under no circumstance should the political vote be granted to immigrants quickly, since this would create the danger of political exploitation by various groups of immigrants. Those who move to a new country and cultural environment will, presumably, improve their living conditions. But they have no right to use the mechanism of political coercion—the democratic ballot—to promote policies of income redistribution or to intervene in the spontaneous processes of the national markets which they enter. It is true that, as dismemberment into increasingly smaller states progresses, the right to vote and political elections will lose importance and will, in practice, be replaced by "voting with one's feet." But it is no less true that, until this process of decentralization is complete, the automatic

---

[9]It is paradoxical to note how Julian Simon, in his enthusiasm to justify free emigration and highlight its positive effects, is willing for significant economic damage to be inflicted on immigrants, not only in cases where the value of their contributions to the public social security system is much higher than the benefits they receive, but also when he defends an auction system for immigration rights which, in his own words, "will transfer a considerable part of the 'profit' from the pocket of the immigrants to the pockets of the natives." Simon, *Population Matters*, p. 293.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

granting of political rights to immigrants may be a time bomb that under certain circumstances can be used by a voting majority to destroy the market, culture, and language of the recipient country. Only after a long period of time, when the immigrants may be assumed to have fully absorbed the cultural principles of their new society, should the granting of full citizenship, including voting rights, be considered. Apropos of this, the principle established in the European Union, whereby citizens of other EU countries may vote in the elections of the municipality where they reside, is highly questionable. Such a rule could completely distort the atmosphere and culture of many localities where there happens to be a majority of foreign residents, for example, in parts of Spain, where elderly persons come to live from the United Kingdom, Germany, etc. Only when such residents have been living in the new area for a minimum number of years and have acquired property rights there (homes or other real estate) would it be justified to grant them the right to vote.

Finally, the most important principle is that all immigrants must at all times observe the law, particularly the criminal law, of the social group that receives them. Specifically, they must scrupulously respect all property rights established in the society. Any violation of these rights should be punished not only by the penalties fixed in the criminal code but also by the expulsion (definitive in most cases) of the immigrant in question. Thus, the phenomena of mass occupation (as is the case already mentioned of the *fabelas* in Brazil, which have generally been built on land belonging to other people) would be avoided.

We have already seen how the most visible problems posed by immigration arise from the fact that there is no clear definition or strict defense of the property rights of the natives, meaning that the immigrants often generate significant overall external costs for the native citizens. This leads to serious outbreaks of xenophobia and violence that themselves have a high social cost, and in turn produce juridical and political results the additional costs of which are often paid by the innocent. These conflicts would be minimized precisely to the extent that private property rights became effective and were extended to include resources at present considered to be publicly owned. Until total privatization can take place, the use of public goods must be regulated in order to avoid the mass occupation problems we have mentioned.[10]

---

[10]The above principles should be applied today to both intranational and international emigration. Although it is true that, within the borders of the present-day

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CONCLUSION

The measures outlined here will not eliminate all the problems posed by migratory flows at present. They will, however, tend to reduce them and lead in the direction that all freedom lovers should desire. In any event, the definitive solution of these problems will not come until the present-day states are dissolved into tiny political units and all their publicly owned goods fully privatized.

nation-states, the greater cultural and economic uniformity means that, in general, the problems are not so serious, many external cost problems (for example, problems of beggars and tramps) would be solved by consistently applying the mentioned principles. It is, however, in relation to international emigration that the need to apply these principles is most urgent. In any event, other measures that have sometimes been proposed—even by supposedly libertarian theorists—such as immigration quotas or auction systems for the right to be an immigrant, should be ruled out, since they conflict with libertarian ideals.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

IMMIGRATION INTO A FREE SOCIETY

Tibor R. Machan*

What should be a free country's policy toward foreigners who would wish to live there? This may appear to be a fairly simple question, but it involves many complications. To start with, what exactly is a free country? What is a policy? What precisely are foreigners? In this discussion, I will construe a "free country" to be a contiguous geographical region the rightful occupants of which have chosen, individually and mutually, to be governed by a common system of laws and their administrators. There would be full consent of the governed to the basic principles of the government, its constitution, and everyone would have the right to take part in the selection of the administrators, whose authority would be fully circumscribed by the provisions of the constitution—no special authority for administrators that the citizens cannot possess.

A "policy" of such a country would be the legal guidelines that would prescribe how to deal with certain public concerns. To join such a country would be to some extent a public concern, applying to all who are not but wish to become members of the citizenry. People who are not citizens of the country are "foreigners" relative to the citizens of the country. To immigrate into a country would amount to having abided by the policy that should guide the process of becoming a citizen of a country, and we are here interested in immigration into a free society. How would that be done?

PROPER IMMIGRATION

The right immigration policy for a free country, to put it bluntly at first, should be this: those who can demonstrate that they aren't under indictment for any kind of violent crime and have the economic means—a job and/or property in the free country they choose to join—should be accepted as citizens.

In a free country, this would mean that they are self-supporting, not dependent upon obtaining funds from others in order to

---

*Tibor R. Machan is professor of philosophy at Auburn University (on leave) and distinguished professor and fellow at the Leatherby Center of Chapman University, California. He is also research fellow of the Hoover Institution, and author of, among other books, *A Primer on Ethics, Private Rights and Public Illusions*, and *Generosity: Virtue in Civil Society*. He is the editor of anthologies including *The Libertarian Alternative*.

Journal of Libertarian Studies 13:2 (Summer 1998): 199–204

©1998 Center for Libertarian Studies

LICENSED TO UNZ.ORG

ELECTRONIC REPRODUCTION PROHIBITED

survive. Now this is not what one might call a recklessly "open door" policy on immigration, but one that is open in a prudent, responsible fashion. Not just anyone could become a citizen, true enough. There is, however, no basic right for one to be accepted as a neighbor in any society—one needs to earn admission.

What reasons can be given for accepting the above? The argument goes like this: to acquire property, one needs to find and develop valued items, or obtain them voluntarily from others who have done the same. This applies to acquiring a residence and livelihood. If those acquisitions are made properly, without coercion or fraud, one becomes a fellow citizen, a neighbor.

MODELING IMMIGRATION

Consider, as a possible model for immigration, joining a so-called gated community. People often seek entry there either to visit folks who live there or to explore the possibility of eventually purchasing or leasing a home. In such cases, they may enter only if given permission by those who own the place—an occupied home or one that is for lease or sale. They would have to leave if those owners withdrew permission. However, once they meet their terms and become lessees or owners, they can live in the community.

A free society may well be modeled on such a gated community. Immigration would be predicated on the permission to either visit someone (an employer or friend) or to purchase a residence. The general precondition, then, of immigration into a free society is self-sufficiency and voluntary relationship with those who are already there.

DOWN TO SOME CURRENT CONCERNS

Of course, many questions have arisen in connection with immigration policies in the United States and elsewhere, and it will be useful to address at least some of them based on the general position sketched above.

Is Cultural Identity Necessary?

To start with, does an ongoing viable political community require a sense of "identity," based on more or less common cultural attributes? Will not the stability and orderliness of a country be in jeopardy if it becomes inundated with citizens who are culturally and ethnically, even racially, different? Such an issue has been raised by, among others, Patrick Buchanan, one of the Republican presidential aspirants in 1996.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Is this kind of "anti-immigration" argument essentially collectivist? Not necessarily. If by "identity" we have in mind some unifying set of values that bear on public policy and human interaction in general, there is reason to believe that the anti-immigration argument tied to this concern has some merit. If those who aspire to immigrate to a country hail from communities in which corrupt community values prevail, and if the prospective immigrants haven't seen fit to be rid of them, there is a serious issue afoot. But if it is a matter of bringing in people whose personal habits or religion or style of play tend to make the existing citizens uncomfortable, this cannot be cause for exclusion. One has no entitlement in life to be surrounded by folks who are in every way pleasing to oneself. Multiplying this by millions does not change the moral dimensions involved: majorities have no entitlement to find themselves comfortable with those living nearby, their neighbors. The matter of lacking civilized values, however, is fully manageable by reference to the criminal record or lack thereof of the prospective immigrant, as well as his willingness to swear to uphold the law in the country to which he aims to immigrate.

Consider, for example, that one may wish to immigrate to the United States while remaining a committed Muslim or Roman Catholic or even, to use a more exotic example, a serious bull fighter. If, as it should be, there are no laws prohibiting religious affiliations in a free society, nor any prohibition of the use of animals for sport, then there will be no problem with someone with such commitments coming to that free country. The constitution of such a country makes ample room for those who are economically self-sufficient continuing following their faith or sporting habits.

Should, however, a prospective immigrant believe in, say, the Ghanaian practice of sacrificing a ten-year-old virgin to a local priest because her father sinned (for which the young girl needs to pay), or should someone aspire to join a free society with the objective of coercing others into refraining from eating meat because cows are sacred, such a person could not honestly swear to live by the laws of the country, and could not, then, immigrate and become a citizen. If he were to take the oath, and it later turned out to have been fraudulent, then he could be promptly deported.

We might put it this way: a minimalist identity of fundamental beliefs in individual rights is required of prospective immigrants. The precise philosophical or religious source of such a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

belief, however, is not relevant. Nor need such prospective immigrants become committed practitioners of the religious and cultural customs and rituals of the bulk of the existing population. A free society respects individuality and cultural variety, provided that these operate within the framework of a system of laws that protect individual rights to life, liberty and property.

Immigration and Democracy

What effect, however, does today's mass democracy have on the issue of immigration? Nowadays, whoever is in control of the state apparatus, through elections, can dispose of the wealth of all citizens. Is this an argument for limiting immigration?

We, of course, live in what I have dubbed a democratic fascist state, one wherein the majority of voters can have their way with the law with nearly no restraint at all. The U.S. Supreme Court is no longer a bulwark against this, after decades of deconstruction of the U.S. federal and many state constitutions. What, if anything, can be done to set immigration aright in this context?

There is reason to think that limiting immigration will not help at all; indeed, it would be hypocritical to have a welfare state, which is supposedly dedicated to assisting those in dire straits, and exclude people outside of the country from benefiting from its wealth distribution. But, in any case, the welfare state is such a confusing mess of contradictions that one cannot derive from its tenets any consistent policy about anything, including immigration.

Are Europeans to be Preferred?

Is it, furthermore, conceivable that immigration should be limited, for contingent political reasons, to Europeans, plus others who have certain skills and background?

As discussed in the previous paragraphs, the only matter that should concern present citizens about prospective citizens is whether they can sustain themselves without becoming uninvited burdens on others and whether they are committed to living in accordance with the laws of a free society. Provisions to ascertain such matters would be appropriate, but to demand any further declarations or loyalties would be a violation of the rights of those prospective immigrants. This does, of course, tend to favor Europeans in the tradition of classical liberal ideals and ideas, although that, too, is just a loose association that has innumerable exceptions. It is the substance of commitments, not the origin of those committed, that matters in this as in many other areas of social life.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

I should add here that the suggestion that ethnicity should count for much is confused: it is unclear what ethnicity is in an age of widespread inter-marriage among people of a great variety of ethnic origins, not to mention the inter-marriage and procreation of those who already come from mixed parentage. (I, for example, have a German mother and a father who came either from Scotland or Slovakia.)

Nearly everyone in Europe, and even more so in the United States, is now of mixed parentage—in relatively free societies, the dreams of Pat Buchanan and his many enthusiastic supporters are impossible to implement. What one can do is to apply the test of loyalty to legal principles, which is what taking an oath in support of the U.S. Constitution approximates. The trouble is, then, with the current content of that document, and how courts interpret it, not with immigration policy as such. The ethnic cleansing implicit in the Buchanan doctrine is not only in violation of cherished and true American principles of justice—whereby individuals are judged on the content of their character, not by the color of their skin or the purity of their blood—but is also totally impracticable.

Does an Open Door Policy Favor One American Political Party?

We can finally address a concern of Peter Brimelow's, in an article in *National Review*, that the current immigration situation will make the election of a Republican president "impossible" in the future. Is that how these issues should be decided?

Certainly there may be something to this, given the propensity of governments to wrest their power by means of wealth redistribution. First, such a policy violates the tenets of a bona fide free society. Second, once those tenets are systematically violated—i.e., their violation is embodied in the legal system—there is what might be called a "deuces wild" situation in the country. This follows from a well-known principle of formal logic: once a contradiction enters a line of argument or reasoning or an action-guiding system—e. g., a legal order—nothing can be excluded from it on principle. This means that while one group may be favored in immigration for a period, another might be favored for another period; so that, yes, Republicans might not meet with the approval of those who wish to enter for the sake of gaining material wealth from the taxes of others. But if the country's policies, because of popular sentiment to which politicians yield, change in the direction, say, of militarism or religious fundamentalism, that may favor Republicans. There is, then, some short-term validity to Brimelow's fears, but this could easily change with the winds of popular opinion.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CONCLUDING THOUGHTS ON IMMIGRATION

If one holds that a certain system of laws is required to establish, protect, and maintain justice in a human community, then one will also hold that once there are serious, systemic compromises in that system of laws, matters will go haywire and a situation of "anything goes" will eventually develop, on any front of social life. Tyrannies beget tyrannies, small ones beget greater ones, and the only way to resist this is a vigilant insistence on the re-establishment of—or at least approximation to—the system of laws that serves justice. The libertarian idea is that a consistent system of law—guided by the principles of individual rights—serves justice best, including in the area of immigration policy. Once that system is abandoned, there is not much one can do except strive to get back, closer to it.

We might add here that immigration policies that stress the issues touched upon above—striving for criteria of self-sufficiency and absence of criminal intent—should sustain an optimal approach even in the midst of the widespread confusions engendered by the welfare state that is our current reality in most westerns countries, including the United States.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE SANCTUARY SOCIETY AND ITS ENEMIES

Gary North*

> One law shall be to him that is homeborn, and unto the stranger that sojourneth among you.[1]

At least two fundamental principles of Western law had their origin in Mosaic Israel. The first principle was the rule of law itself: every resident was to be protected equally by the civil law. The second principle was open immigration. The nation's treatment of the immigrant served as a touchstone in Israel of the nation's faithfulness to the first principle.

> And if a stranger sojourn with thee in your land, ye shall not vex him. But the stranger that dwelleth with you shall be unto you as one born among you, and thou shalt love him as thyself; for ye were strangers in the land of Egypt: I am the LORD your God.[2]

The Mosaic law did place some limitations on non-Israelites who lived in the land of Israel, but not many. The main one was the system of inheritance governing rural land. Nevertheless, strangers and newcomers could buy, sell, bequeath, and inherit houses in walled cities.[3] In general, the rule of law was to prevail. This made national Israel unique in the ancient world.

The rule of law was God's way of announcing His universality to all nations: His law was universal and just. The righteousness of God's law would be seen by strangers and praised.[4] This was a form of international evangelism. Resident aliens could provide testimonials to the folks back home regarding the justness of Israel's law and Israel's God. Because of this aspect of the Mosaic legal order, it was a violation of the law for Israelites not to honor the rule of law. To do so constituted false evangelism, i.e., false testimony regarding the sovereignty of God over all men and nations as the Creator and Lawgiver.

---

*Gary North is the editor of *Remnant Review*, and the founder of the Institute for Christian Economics. Dr. North is the author of a large number of books, including *Marx's Religion of Revolution, An Introduction to Christian Economics, Tools of Dominion: The Case Laws of Exodus*, and *Millennialism and Social Theory*.

[1]Exodus 12:49.

[2]Leviticus 19:33–34.

[3]Leviticus 25:29–30.

[4]Deuteronomy 4:5–8.

Journal of Libertarian Studies 13:2 (Summer 1998): 205–219

©1998 Center for Libertarian Studies

LICENSED TO UNZ.ORG

ELECTRONIC REPRODUCTION PROHIBITED

GEOGRAPHICAL SANCTUARY AS A FORM OF EVANGELISM

The sanctuary status of Israel was to serve as an international testimony to the righteousness of God. Fundamental to this sanctuary status were open borders. In a legal sense, Israel was supposed to become a refuge for the afflicted, even the runaway slave.

> Thou shalt not deliver unto his master the servant which is escaped from his master unto thee: He shall dwell with thee, even among you in that place which he shall choose in one of thy gates, where it liketh him best: thou shalt not oppress him.[5]

The landless, oppressed alien had a sanctuary in Israel, if he could reach the borders of the land. Freedom was available to all by law in Israel, and this lure of freedom was designed to bring strangers into the nation.

Open immigration was an important means of evangelism. Strangers could come to Israel, settle there, buy houses in walled cities, become productive, and live in peace. They could obtain security of ownership for their property even though they were not citizens or members of the religious congregation. They even had access to the temple if they were willing to be circumcised, which was a unique openness in the ancient world. This was also part of the rule of law.

> And if a stranger shall sojourn among you, and will keep the passover unto the LORD; according to the ordinance of the passover, and according to the manner thereof, so shall he do: ye shall have one ordinance, both for the stranger, and for him that was born in the land.[6]

The stranger was listed as one of the three representative classes that deserve honest treatment, along with orphans and widows.[7]

Thus, Israel was not just the Promised Land for Abraham and his heirs. It was supposed to remain the Promised Land for the oppressed of the world. And, in some periods, it really was.

AMERICA AS A SANCTUARY

Americans like to think of their nation as the "Land of the free, home of the brave." Indeed, the image of America as a sanctuary was a dominant one in the nineteenth century and the early

[5]Deuteronomy 23:15–16.
[6]Numbers 9:14.
[7]Deuteronomy 10:17–19.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

twentieth. This image goes back to the early colonies. It was the steamship, with its low-cost, relatively safe passage across the Atlantic, that made this image nearly universal. This new technology advanced especially after the Civil War, and it changed the character of the nation. It shifted the primary sources of immigrants from northwest, Protestant Europe to southern and central Europe.[8]

Nevertheless, this change in technology only accentuated and accelerated what had in principle been a valid image from the beginning. While the Puritans' Massachusetts Bay Colony in the first decade was judicially inhospitable to non-Calvinist and non-Congregationalist immigrants, even including Calvinistic Presbyterians, this began to change in the 1640s. In England, the two Parliaments, "Short" and "Long," began their resistance to Charles I in 1640, and immigration out of England slowed dramatically. This created America's first economic depression in New England, for immigrants had been a major source of new currency.

In the 1640s, immigrants began to be perceived as too valuable to be sent back, and Oliver Cromwell's declaration of liberty of religious worship for all Protestants in the 1650s made religious discrimination more difficult in New England.[9] The restoration of Charles II to the throne in 1660, a little over a year after Cromwell's death, cemented the new order inside New England, although in England itself, the King re-established the supremacy of the Church of England.[10] To avoid interference from the King, New England established religious liberty for all Protestants. Maryland granted it to Roman Catholics as well.

The other English colonies had been much more open to immigrants from the beginning. After 1660, the English began a century-long extension of their control in North America. Quebec remained French, and so did much of the land west of the Alleghenies Mountains, but on the American coast north of Florida, the English triumphed. The English colonial principle of open immigration from Europe remained dominant in the United States until the immigration laws of the 1920s.

Americans retained the image of America as a New Jerusalem or New Israel through World War I.[11] One aspect of this

---

[8]Thomas Sowell, *Ethnic America: A History* (New York: Basic Books, 1981), pp. 12–13.

[9]John Van Til, *Liberty of Conscience: The History of a Puritan Idea* (Nutley, N.J.: Craig Press, 1972), pp. 100–5.

[10]Van Til, *Liberty of Conscience*, chap. 5.

[11]Ernest Lee Tuveson, *Redeemer Nation: The Idea of America's Millennial Role* (Chicago: University of Chicago Press, 1968).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

image was of America as a sanctuary. Emma Lazarus's famous poem at the base of the Statue of Liberty was consistent with this earlier, highly religious image.

THE NEW PRIESTHOOD

In ancient Israel, there was a national priesthood, which was assumed to be the primary agency of cultural assimilation for immigrants. This is why immigrants were allowed to become Israelites through circumcision.[12] Political citizenship followed in three generations for Egyptians and Edomites,[13] and in ten generations for Moabites and Ammonites.[14] Confession, circumcision, and Passover were the initial means of assimilation. That is, the assimilation process began with religion. The same outlook long prevailed in the West, with the Christian church serving as the priesthood. The church was the primary means of cultural assimilation.

There never was a national priesthood in the North American colonies. In New England, citizenship was officially based on religious confession and local church membership, but this legal restriction was changed by Charles II as soon as he ascended to the throne.[15] Land ownership was substituted for church membership as the basis of the franchise. Even those colonies that used tax money to support the churches never suggested, after 1660, that the established denomination should enjoy monopoly status. A century later, the mere hint that the Church of England might send a bishop to the colonies, who could ordain Anglican pastors here, was a major factor in origin of the War of Independence.[16] By the end of the 1830s, no state still supported churches. The national religious revival known in retrospect as the Second Great Awakening (1797–1840), which was conducted mostly by Baptists, Methodists, and other Independents, ended the political acceptability of a state-established church. Even Massachusetts and Connecticut finally capitulated in the 1830s.

This did not mean that there was no priesthood after 1830. A new established church was substituted for the old: the public schools. There was also a new priesthood: the teachers. Under

---

[12]Exodus 12:48.

[13]Deuteronomy 23:8.

[14]Deuteronomy 23:3.

[15]T.H. Breen, *The Character of the Good Ruler: A Study of Puritan Ideas in New England, 1630–1730* (New Haven, Conn.: Yale University Press, 1970), p. 90.

[16]Carl Bridenbaugh, *Mitre and Scepter: Transatlantic Faiths, Ideas, Personalities, and Politics* (New York: Oxford University Press, 1962).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the guidance of Horace Mann, Massachusetts created a comprehensive tax-supported public school system. It was designed by Mann to inculcate a common national morality rather than sectarian religion.[17] Church historian Sidney Mead put it quite bluntly in 1963: "the public-school system of the United States *is* its established church."[18] To this new established church fell the responsibility of assimilating the flood of immigrants for the next nine decades. Only with the Immigration Acts of 1921 and 1924 was faith in the power of the public school as assimilator finally called into question.

To Pledge Allegiance

The pledge of allegiance to the American flag was a daily part of this process of cultural assimilation. The pledge was written anonymously in 1892 by Francis Bellamy, who was a staff member of *Youth Companion*, which published the pledge. The original words pledged allegiance to "my flag," but in 1923 this was changed to "the flag of the United States of America."[19] The pledge became popular as a daily recitation in public schools as a way to bring a sense of a national covenant membership to immigrant school children. (One of the great ironies of this tradition is that today, the Christian day-school movement adheres to the daily pledge far more than the public schools do.)

The year before the pledge of allegiance was written, the Maine Annual Conference of the Methodist Episcopal Church announced a problem with mass immigration:

> Unsaved millions of foreigners are coming to our shores, forcing upon us one of the greatest missionary questions of modern evangelism, *viz*:—shall America be unamericanized, or shall the millions of our North American citizens be brought into sympathy with our Christian institutions through the church of Jesus Christ?[20]

The common assumption here was that to be a good American was to be a good Christian, and a Protestant at that. But the proper means of Christianization was unclear to the Protestant establishment. Evangelism was one way, but there was no common program, no common confession, no common priesthood binding the

---

[17]R.J. Rushdoony, *The Messianic Character of American Education: Studies in the History of the Philosophy of Education* (Nutley, N.J.: Craig Press, 1963), chap. 3.

[18]Sidney E. Mead, *The Lively Experiment: The Shaping of Christianity in America* (New York: Harper and Row, 1963), p. 68.

[19]"Pledge of Allegiance," *Grolier's Encyclopedia* (1990).

[20]Cited in Paul Kleppner, *The Third Electoral System, 1853–1892: Parties, Voters, and Political Cultures* (Chapel Hill: University of North Carolina Press, 1979), p. 198.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

denominations of America. There was only the public school system. A common confession still seemed possible, but not through denominationalism, which Protestants held sacred. This forced them to hold the public schools sacred: a common voice of authority.

The problem was, and remains, the fact that government-funded public education is not neutral. It is not religiously neutral, ideologically neutral, or tax neutral. Each political group with a vision of what America should be has seen control over the public school system as vital to the success of its mission. The quest for power has led to a quest for authority over the primary agency of assimilation. The continuing call for the centralization of public school standards, textbooks, and funding is part of this quest. It is less expensive for a dedicated ideological group to take control over one national school system than over thousands of local school systems.

THE QUESTION OF CIVIL COVENANT

The religious question of every civil covenant is the question of the terms of confession. Immigrants who seek naturalization—U.S. citizenship—are asked to swear allegiance to the Constitution. But it is the states that impose and enforce this oath under the Constitution. The Constitution is national, but the oath is administered locally by states.

Article VI, Section III of the Constitution forbids the imposition of religious oaths as conditions of any Federal office holders. By means of the Fourteenth Amendment, this Federal restriction has been extended downward by the courts, until in 1961 it was applied by the U.S. Supreme Court to the lowest civil office in the land: the notary public.[21] Thus, the national confession has been secularized. This was not true of most of the colonies prior to 1776. A new national experiment began in 1788, one which had its roots in Roger Williams's Rhode Island over a century earlier: religiously neutral civil government. This experiment is being tested today throughout the world. The loyalty oath demands loyalty to the Constitution.

For immigrants who are unwilling or unable to meet the various state standards for citizenship, there is another way to become part of America: procreation. The Fourteenth Amendment declares that everyone born inside the United States automatically becomes a citizen. At the age of legal maturity, he or she

[21]The case was *Torcaso v. Watkins*.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

may lawfully vote. The children of the immigrant can attain automatic citizenship if they are born here.

The civil covenant is by confession for adult immigrants, but it is by birth for their children. This has led to an ever-increasing political problem: the barriers to entry into citizenship facing adult immigrants do not restrict entry by their children. Covenant membership by confession is replaced by covenant membership by public school assimilation—or in some cases, no assimilation at all. Pregnant women, especially from Latin America, fly into the United States, bear their children, and fly back. Their children are now eligible for citizenship at age eighteen. The jet airplane has replaced the steamship as the technology of choice for would-be immigrants. Meanwhile, Mexican women who can bear their children on the U.S. side of the border do not even need a plane.[22] At age eighteen, these children can come to the United States, and U.S. immigration law generally favors subsequent entrance by close relatives.

The problem here is political: it is a matter of citizenship. It raises economic questions because of the nature of modern politics. A very big question is this one: in a nation that allows wealth redistribution through politics, what is to protect today's property owners from tomorrow's voters? When people can vote for a living, what prevents the arrival of an army of new voters, many with their eyes on the politically transferable wealth of the Promised Land? Even if they do not understand how wealth is transferred politically when they arrive, another army of salaried welfare professionals will soon teach them. After all, their jobs depend on a continuing stream of recipients.

A great debate is now taking place between economists over whether immigrants absorb more welfare money than they contribute through taxes. This question is interesting, and an answer —if possible to achieve—would surely be useful, but not for the reasons suggested by most economists. The more important question is this: why do immigrants from some nations or religious backgrounds resist the lure of the welfare state better than others? The answer to this question should not be used to halt immigration from certain countries, as if blanket restrictions were morally just. It should be used, rather, to begin to re-think our own moral standards, as individuals and as a nation. How can we better imitate those who resist?

---

[22]Matt Moffett, "Border Midwives Bring Baby Boom in Texas," *Wall Street Journal* (October 16, 1991): 1.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

COVENANTS AND CONTRACTS

A covenant is a contract that is sealed by an oath. A marriage contract is in fact a covenant, and was regarded as such until the days of no-fault divorce. It once had more rigorous rules associated with it than a business contract did.

Similarly, a civil covenant is more binding than an employment contract. To break an employment contract is not normally regarded as equal in importance to renouncing one's citizenship or committing treason. The presence of a binding oath makes the difference. Swearing in a court of law—people used to swear on a Bible—imposes restrictions on us that are more binding than promising an employer that we will be at work on time from now on.

Consider the case of an employer who wants to hire more employees. He likes to face a market in which there are more and more potential employees to choose from. Since employees compete against other employees and potential employees, this lowers the cost of the scarce economic resource he wants to buy, i.e., labor. This is beneficial for the employer of labor.

But what if there were an additional factor involved? What if the civil government has recently passed a law saying that after a certain number of years, these newly arrived potential employees could vote themselves part ownership in the business? What if ownership were determined by the ballot box? Would the employer be equally happy about a recent influx of potential employees? Or would he prefer to restrict the supply of potential employees to those people who promise not to vote, or to those who can prove that they have subscribed for over five years to *The Journal of Libertarian Studies*?

Freedom of contract is always a question of the civil laws governing the enforcement of contracts. That is, the question of private contracts is always a question of the civil covenant. In a social order in which the civil covenant does not protect private property, the question of who is given access to membership in the civil covenant takes on special meaning. The freedom of contract, which implies open immigration, could lead to the destruction of freedom. This is the problem of civil covenants and contracts.

A WAR AGAINST PROPERTY

Nations sometimes go to war against each other. Armies battle armies for the power of politicians to impose the terms of another nation's civil covenant. In a declared war, the question of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

borders becomes paramount. Who is allowed to cross a border? Is the person seeking entry a friend or a foe? Ludwig von Mises, a recently arrived Jewish immigrant from Austria by way of Switzerland, who had fled for his life from the Nazis, wrote in 1944:

> Unrestrictedly opening the doors of the Americas, of Australia, and of Western Europe to immigrants would today be the equivalent of opening the doors to the vanguards of the armies of Germany, Italy, and Japan.[23]

That was wartime. Different rules prevail in wartime than in peacetime, when the very survival of national covenants is seen by most people as more important than the defense of private contracts. But when peace arrives, can these same wartime rules be legitimately maintained? Mises said *no*, just so long as the state was not a redistributivist state, which admittedly begs the question in this interventionist century.[24]

In contrast, Wilhelm Röpke, Mises's former pupil and a defender of free market economics, always opposed open borders. A German who fled to Switzerland in World War II, he perceived the threat to the Swiss tradition of closed borders which had long defended the private property order. More than this, he argued that nations are more than a series of voluntary private contracts. In other words, he argued that the cultural foundations of civil covenants are more important than the terms of exchange in contracts. As he wrote in 1942,

> it would be a great mistake and altogether bad psychology to overrate the influence of purely economic interests on the content of ideologies and the belief extended to them. Man does not live by bread alone.[25]

In 1959, Röpke commented on the ideal of the free mobility of capital and labor across borders. It was a fine ideal, he said, but "it would be an unreal assumption to think that—in their choice of a place of residence—men would only be influenced by economic calculations."[26] National sovereignty, meaning covenantal independence, is at stake here, for "every land must have the right to

---

[23]Ludwig von Mises, *Omnipotent Government: The Rise of the Total State and Total War* (New Haven, Conn.: Yale University Press, 1944), p. 10.

[24]Ludwig von Mises, *Liberalism in the Classical Tradition* (Irvington-on-Hudson, N.Y.: Foundation for Economic Education, [1927] 1985), p. 142. On Mises's view of immigration, see Ralph Raico, "Mises on Fascism, Democracy, and Other Questions," *Journal of Libertarian Studies* 12 (Spring 1996): 24–25.

[25]Wilhelm Röpke, *International Economic Disintegration* (London: Hodge, [1942] 1950), p. 93.

[26]Wilhelm Röpke, *International Economic Order and Economic Integration* (Dordrecht, Holland: Reidel, 1959), p. 141.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

protect its intellectual and political tradition from an influx of immigrants, who might endanger it by their incapacity to be assimilated or even by their sheer numbers."[27] Every country has a right to "protect its biological and intellectual inheritance."[28]

The Welfare State

Röpke also understood the threat of the welfare state:

> The more we leave the responsibility for our welfare to the national government—in reality of course the collective total of the tax-payers—the more jealously we shall watch over the numbers of those who must share in the booty. The more the passport becomes by means of the extensions of the social services a gratuitous insurance policy, all the less tolerant shall we be in the issuing of such a document, and in the end anyone who is not firmly attached to a national community is lost.[29]

In short, where the welfare state is deeply entrenched, a nation will no longer be willing to serve as a sanctuary. It costs too much. If the welfare state ever becomes universal, locked-in populations will also become universal. There will be no escape from tyranny because of the border guards who keep would-be refugees from crossing the border into greater freedom.

A nation's voters may seek to vote themselves wealth from their fellows, but in doing so they create an engine of plunder that evil men will seek to control. When Hayek wrote Chapter 10 of *The Road to Serfdom* in 1944, "Why the Worst Get on Top," he had in mind just such a system of plunder. Those who conduct the plunder in the name of the economically oppressed often welcome additions to the list of oppressed, at least until the welfare state's existence is threatened by the outflow of funds. In a few years, immigrants will vote, and the lure of such votes is nearly irresistible to power seekers. Meanwhile, the worst of the newly arrived immigrants will see their opportunities, too. They will begin their climb toward the top.

When civil covenants become covenants of plunder, then the threat to the right of voluntary contract escalates. When a war against property begins, those who command the plundering troops seek new recruits. Immigrants who are struggling hard just to get by economically make very good potential recruits. The moral will to resist the offer of free goods from the state may not

---

[27]Röpke, *International Economic Order and Economic Integration*, p. 141.
[28]Röpke, *International Economic Order and Economic Integration*, p. 142.
[29]Röpke, *International Economic Order and Economic Integration*, p. 147.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

be strong in certain cultures, and immigrants from those cultures may not be ready to resist the lure of free goods. Röpke's critique of open borders went beyond a critique of the welfare state. His was a moral-based, i.e. *confession-based*, critique.

BY WHAT STANDARD?

Politicians impose quotas on goods and services in terms of their political advantage. So do they also impose immigration quotas. Are the two kinds of imports the same? They are not. People are far more complex than capital, goods, and services. Also, people vote.

So, in a democracy, the immigrant becomes a political issue. (This includes those other unwashed would-be immigrants who sometimes face determined border guards: unborn babies.) Who sets the standards? Who says which moral heritage is valid and which must be resisted? Who predicts which immigrants will threaten the system, and which will not? Immigration quotas that discriminate against the people of any nation are public testimonies: "Your kind are not what we want." This is why immigration quotas are matters of foreign relations as well as domestic policy. Discrimination that would not be tolerated by a domestic court system is inherent in the very existence of a national immigration quota system.

For this reason, immigration quotas are a great moral dilemma for modern liberalism. The existence of immigration quotas points to an underlying assumption that modern defenders of cultural relativism prefer not to admit: some cultures are morally inferior to others. To suggest such a state of affairs in public is to violate the canons of liberalism, but to deny it is to demand open borders.

This is not to say that cultural supremacists must always come out for closed borders. Moses was surely a cultural supremacist when it came to evaluating the cultures of Moab and Ammon. Nevertheless, he honored God's law: refugees from both nations had access to the sanctuary of Israel. The crucial boundary was citizenship, not the border. Who became a judge in Israel was of far greater concern than who became a resident.

Do we trust our politicians to set the proper standards regarding who has access to America's sanctuary and who doesn't? We trust them with respect to citizenship, but citizenship is established by the U.S. Constitution, not this week's majority in Congress. Citizenship is a matter of Constitutional law, not temporary political alliances.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The issue of "them" vs. "us" is an inescapable one in civil affairs. The politics of plunder makes this issue a matter of compulsion. When "they" can vote their way into "our" wallets, "we" begin to reconsider the possibility of finding ways to restrict the number of "them." The welfare state inevitably extends to the international scene the domestic political battle over the distribution of the plunder.

If everyone with the price of air fare can gain lawful access to this plunder, there will soon be nothing left to redistribute. The implications of this fact do pose a threat to the defenders of political plunder. It becomes clear to all that the supply of confiscated wealth will not survive the arrival of a flood of immigrants in search of state security. It makes it clear that at zero price, there is more demand for scarce economic resources than supply. So, those who demand even more state welfare programs can be found defending immigration quotas. "This plunder must go on; no need to bankrupt the system prematurely!"

TO BREAK THE BANK

The sanctuary status of a free society is one of its greatest moral strengths. It constitutes a major aspect of its high moral ground. "Live free with us!" is a powerful, compelling promise. "Live free of charge with us!" is its antithesis.

A sanctuary must be able to defend itself from external aggression. It must also be able to defend itself from internal revolution. But far more important, it must be able to defend itself against internal conquest by people who support the politics of plunder, which will inevitably destroy the economic foundation of the sanctuary.

The sanctuary society is based on an indispensable pair of beliefs: the moral superiority of the free society and the illegitimacy of the politics of plunder. The right of voluntary contract is basic to the free society. If a rival view of the civil covenant replaces the sanctuary's covenant of limited civil government, then the right of contract will be undermined. With it will go the sanctuary society.

The moral superiority of the free society is hard to defend in an era of moral relativism. Similarly, the right of contract is hard to defend in an era of political plunder. The immigration issue is now forcing the hands of those who believe in the moral superiority of the free society. It is also forcing the hand of those who believe in cultural relativism. The former are fearful of an

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

invasion of people who have an insufficient understanding of freedom, who will gain access to the franchise. The latter are fearful of an invasion of people whose numbers are sufficient to break the bank of the welfare state and thereby end the domestic politics of plunder.

One of the greatest ironies about this debate over immigration is that the public education system has become the main focus of concern. The hoped-for assimilator of immigrants is now being torn apart. First, its budgets are threatened by too many immigrant children, as well as by "white flight," meaning middle-class flight out of the schools. Second, the moral relativism inculcated by the secular teacher training institutions is now undermining the public school's older, more patriotic integrating function. Third, cultural relativism has now led to the implementation of second language programs, which is beginning to undermine the unity required of any system of cultural assimilation. America's established church is visibly breaking down. Faith in it is waning, though this faith has not yet departed completely. The arrival of tens of millions of immigrants, legal or illegal, would unquestionably destroy this faith, which would in turn threaten the survival of the humanistic world view that the public schools inculcate.

When critics of open immigration tell me that these newcomers will bankrupt the state welfare systems, I am not sent into a state of despair. When they also tell me that the public schools could not stand the pressure, I am also not sent into despair. At zero price, there is greater demand than supply. The larger the demand, the faster the bankruptcy. If voters begin to perceive that immigrants are not morally entitled to the welfare state's entitlement programs, I can only concur. It then becomes easier to make my point: no one else is entitled to them, either.

CONCLUSION

The sanctuary status of the United States visibly began to fade with the 1920s immigration laws. But, in fact, the moral basis of this sanctuary status had been undermined generations earlier, with the advent of the public schools as a replacement for the churches and voluntary agencies of charity as the primary means of cultural assimilation. The states exchanged one tax-funded church system for another, but the replacement system has been rapacious and demanding beyond anything dreamed by New England Congregationalists in 1830. The Congregationalists faced resistance from all the other denominations, not to mention

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

non-attendees who wanted lower taxes. The public schools still maintain the allegiance of the vast majority of voters. This established church is far more resistant to criticism, and far more trusted, than any denomination ever was. It may take ten million new immigrants to break its hypnotic spell, not to mention its finances. This is a very strong argument for open borders.

The main problem, however, is not the statist welfare system as such, but the doctrine of the civil covenant. The state possesses the power of coercion. It is not established by a voluntary contract enforceable by law; it is itself the enforcer. There is a difference between adherence to the terms of a voluntary contract and obedience to civil law. There is a difference between voting with your money and voting with your ballot. A consumer's legal authority to withhold his financial support from a seller of goods and services affects him, the seller, and the agent who may be holding the cash, e.g., a banker and his clients. A citizen's decision to support or not support a candidate or a proposed constitutional revision affects others, but in an all-or-nothing way. The shunned seller in an economic transaction can legally seek another buyer. A defeated special-interest group after an election may no longer possess this legal option. The all-or-nothing, winner-take-all aspect of civil law places it in a different category from a voluntary contract.

When the immigrant can soon gain access to citizenship, but without any confession of faith other than his promise to obey the law and the Constitution, he thereby gains the authority to participate in the changing of both the law and the Constitution. He can seek to make the law and the Constitution conform to his confession of faith. This is the heart of the matter; this is the heart of the problem.

In Mosaic Israel, the immigrant could not become a citizen until he became a member of the congregation by confession and circumcision—major barriers to entry! The nation of Israel tested the commitment of the immigrant family's confession of faith before it granted to the grandson the right to declare the law as a civil judge. In short, he had to grow up in a family that was under the national covenant before he could declare the law and legally enforce it in the name of God.

In the United States today, the waiting period for citizenship is as short as five years. The waiting period is similar in other democratic nations. This, not the threat of economic competition, is the problem of immigration for the free society. Because the citizen authoritatively declares the law and seeks to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

impose it on others, he can become a threat to the free society. The problem is the moral content of his confession of faith and his possession of civil sanctions, not his productivity and his possession of economic sanctions. Mises was short-sighted here: a nineteenth-century, anti-clerical, would-be value-free analyst, i.e., a liberal. It is not the welfare state as such that creates the problem of immigration; rather, it is the confession of faith of the would-be immigrants. If their confession inherently threatens the moral and judicial foundations of the free society, then immigration is a problem, with or without the presence today of a welfare state. Freedom is based on more than private contracts. It is based on a moral vision, which includes a vision of the moral boundaries of the state.

For a society to continue to serve as a sanctuary, it must preserve its commitment to both economic freedom and the rule of law. If it transfers the judicial authority of citizenship to recent immigrants who came seeking economic benefits—the fruits of liberty—apart from their steadfast commitment to the moral and judicial bases of economic freedom, then it risks losing its economic freedom. This is far worse than inviting a would-be thief into your home, for the thief has a limited ability to carry off your wealth. It is more like granting the thief the power of attorney over your estate and your children's trusts, and then inviting in the neighbors and encouraging them to do the same.

Free trade in goods—the output of labor—is not the same as free trade in labor itself. Things may cross borders, but men are not mere things. They make confessions, and often seek to extend the influence of these confessions by means of state coercion. Citizenship is more than consumership. In an age of democracy, when all who dwell inside the borders of a nation are assumed to have a moral right to seek to implement their confessions through coercive state action, granting a person citizenship is like leaving your cash-filled wallet in the street. You had better find out in advance to what degree the would-be citizen is committed to the philosophy of "finders, keepers; losers, weepers." If you don't, you should prepare yourself for a lot of weeping.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE CASE FOR FREE TRADE AND RESTRICTED IMMIGRATION

Hans-Hermann Hoppe*

It is frequently maintained that "free trade" belongs to "free immigration" as "protectionism" does to "restricted immigration." That is, the claim is made that while it is not impossible that someone might combine protectionism with free immigration, or free trade with restricted immigration, these positions are intellectually inconsistent, and thus erroneous. Hence, insofar as people seek to avoid errors, they should be the exception rather than the rule. The facts, to the extent that they have a bearing on the issue, appear to be consistent with this claim. As the 1996 Republican presidential primaries indicated, for instance, most professed free traders are advocates of relatively (even if not totally) free and non-discriminatory immigration policies, while most protectionists are proponents of highly restrictive and selective immigration policies.

Appearances to the contrary notwithstanding, I will argue that this thesis and its implicit claim are fundamentally mistaken. In particular, I will demonstrate that free trade and restricted immigration are not only perfectly consistent but even mutually reinforcing policies. That is, it is not the advocates of free trade and restricted immigration who are wrong, but rather the proponents of free trade and free immigration. In thus taking the "intellectual guilt" out of the free-trade-and-restricted-immigration position and putting it where it actually belongs, I hope to promote a change in the present state of public opinion and facilitate substantial political realignment.

THE CASE FOR FREE TRADE

Since the days of Ricardo, the case for free trade has been logically unassailable. For the sake of argumentative completeness, it would be useful to briefly summarize it. The restatement will be in the form of a *reductio ad absurdum* of the protectionist thesis as proposed most recently by Pat Buchanan.

---

*Hans-Hermann Hoppe is professor of economics at the University of Nevada at Las Vegas, senior fellow of the Ludwig von Mises Institute, and co-editor of *The Journal of Libertarian Studies* and the *Quarterly Journal of Austrian Economics*. The most recent of his six published books is *The Economics and Ethics of Private Property*. He is the author of introductions to recent editions of Mises's *Liberalismus* and Murray N. Rothbard's *The Ethics of Liberty*.

Journal of Libertarian Studies 13:2 (Summer 1998): 221-233

©1998 Center for Libertarian Studies
LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The central argument advanced in favor of protectionism is one of domestic job protection. How can American producers who pay their workers $10 per hour possibly compete with Mexican producers paying $1 or less per hour? They cannot, and American jobs will be lost unless import tariffs are imposed to insulate the American wages from Mexican competition. Free trade is possible only between countries that have equal wage rates, and thus that compete "on a level playing field." As long as this is not the case —as with the U.S. and Mexico—the playing field must be made level by means of tariffs. As for the consequences of a policy of domestic job protection, Buchanan and other protectionists claim that it will lead to domestic strength and prosperity. In support of their claim, examples are cited of free-trade countries that lost their once-preeminent international economic position, such as 19th-century England, as well as of protectionist countries which gained such preeminence, such as 19th-century America.

This or any other alleged empirical proof of the protectionist thesis must be rejected out of hand as containing a *post hoc, ergo propter hoc* fallacy. The inference drawn from historical data is no more convincing than if one were to conclude from the observation that rich people consume more than poor people that it must be consumption that makes a person rich. Indeed, protectionists such as Buchanan characteristically fail to understand what is actually involved in defending their thesis. Any argument in favor of international protectionism is simultaneously an argument in favor of inter-regional and inter-local protectionism. Just as different wage rates exist between the U.S. and Mexico, Haiti, or China, for instance, such differences also exist between New York and Alabama, or between Manhattan, the Bronx, and Harlem. Thus, if it were true that international protectionism could make an entire nation prosperous and strong, it must also be true that inter-regional and inter-local protectionism could make regions and localities prosperous and strong. In fact, one may even go further. If the protectionist argument were right, it would amount to an indictment of all trade, and a defense of the thesis that everyone would be the most prosperous and strongest if he never traded with anyone else and remained in self-sufficient isolation. Certainly, in this case, no one would ever lose his job, and unemployment due to "unfair" competition would be reduced to zero. In thus deducing the ultimate implication of the protectionist argument, its complete absurdity is revealed, for such a "full-employment society" would not be prosperous and strong; it would be composed of people who, despite working from dawn to dusk, would be condemned to destitution, or even death from starvation.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

International protectionism, while obviously less destructive than a policy of interpersonal or inter-regional protectionism, would result in precisely the same effect and constitute a sure recipe for America's further economic decline. To be sure, some American jobs and industries would be saved, but such savings would come at a price. The standard of living and the real income of the American consumers of foreign products would be forcibly reduced. The cost to all U.S. producers who employ the protected industry's products as their own input factors would be raised, and they would be rendered internationally less competitive. Moreover, what could foreigners do with the money they earned from their U.S. imports? They could either buy American goods, or they could leave it here and invest it, and if their imports were stopped or reduced, they would buy fewer American goods or invest smaller amounts. Hence, as a result of saving a few inefficient American jobs, a far greater number of efficient American jobs would be destroyed or prevented from coming into existence.

Thus, it is nonsense to claim that England lost its former preeminence because of its free-trade policies. It lost its position *despite* its free-trade policy, and *because* of the socialist policies which later took hold. Likewise, it is nonsense to claim that the rise of the U.S. to economic preeminence in the course of the 19th century was due to its protectionist policies. The U.S. attained this position *despite* its protectionism, and *because* of its unrivaled internal laissez-faire policies. Indeed, America's current economic decline, which Buchanan wishes to reverse, is the result not of her alleged free-trade policies, but of the circumstance that America, in the course of the 20th century, has gradually adopted the same socialist policies that earlier ruined England.

TRADE AND IMMIGRATION

Given the case for free trade, we will now develop the case for immigration restrictions to be combined with free-trade policies. More specifically, we will build a successively stronger case for immigration restrictions: from the initial weak claim that free trade and immigration restrictions can be combined and do not exclude each other to the final strong claim that the principle underlying free trade actually requires such restrictions.

From the outset, it must be emphasized that not even the most restrictive immigration policy or the most exclusive form of segregationism has anything to do with a rejection of free trade and the adoption of protectionism. From the fact that one does not want to associate with or live in the neighborhood composed of Mexicans, Haitians, Chinese, Koreans, Germans, Catholics,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Moslems, Hindus, etc., it does not follow that one does not want to trade with them from a distance. Moreover, even if it were the case that one's real income would rise as a result of immigration, it does not follow that immigration must be considered "good," for material wealth is not the only thing that counts. Rather, what constitutes "welfare" and "wealth" is *subjective*, and one might prefer lower material living standards and a greater distance from certain other people over higher material living standards and a smaller distance. It is precisely the absolute voluntariness of human association *and* separation—the absence of any form of forced integration—which makes peaceful relationships —free trade—between racially, ethnically, linguistically, religiously, or culturally distinct people possible.

The relationship between trade and migration is one of elastic substitutibility (rather than rigid exclusivity): the more (or less) you have of one, the less (or more) you need of the other. Other things being equal, businesses move to low wage areas, and labor moves to high wage areas, thus effecting a tendency toward the equalization of wage rates (for the same kind of labor) as well as the optimal localization of capital. With political borders separating high- from low-wage areas, and with national (nation-wide) trade and immigration policies in effect, these normal tendencies—of immigration and capital export—are weakened with free trade and strengthened with protectionism. As long as Mexican products—the products of a low-wage area—can freely enter a high-wage area such as the U.S., the incentive for Mexican people to move to the U.S. is reduced. In contrast, if Mexican products are prevented from entering the American market, the attraction for Mexican workers to move to the U.S. is increased. Similarly, when U.S. producers are free to buy from and sell to Mexican producers and consumers, capital exports from the U.S. to Mexico will be reduced; however, when U.S. producers are prevented from doing so, the attraction of moving production from the U.S. to Mexico is increased.

Similarly, as the *foreign* trade policy of the U. S. affects immigration, so does its *domestic* trade policy. Domestic free trade is what is typically referred to as *laissez-faire* capitalism. In other words, the national government follows a policy of non-interference with the voluntary transactions between domestic parties (citizen) regarding their private property. The government's policy is one of helping to protect its citizens and their private property from domestic aggression, damage, or fraud (exactly as in the case of foreign trade and aggression). If the U.S. followed strict domestic free-trade policies, immigration from low-wage

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

regions such as Mexico would be reduced, while when it pursues "social welfare" policies, immigration from low-wage areas becomes more attractive.

"OPEN BORDERS," INVASION, AND FORCED INTEGRATION

Insofar as a high-wage area such as the U.S. engaged in unrestricted free trade, internationally as well as domestically, the immigration pressure from low-wage countries would be kept low or reduced, and hence, the question as to what to do about immigration would be less urgent. On the other hand, insofar as the U.S. engaged in protectionist policies against the products of low-wage area and in welfare policies at home, immigration pressure would be kept high or even raised, and the immigration question would assume great importance in public debate.

Obviously, the world's major high-wage regions—North America and Western Europe—are presently in this latter situation, in which immigration has become an increasingly urgent public concern. In light of steadily mounting immigration pressure from the world's low-wage regions, three general strategies of dealing with immigration have been proposed: unconditional free immigration, conditional free immigration, and restrictive immigration. While our main concern will be with the latter two alternatives, a few observations regarding the unconditional free immigration position are appropriate, if only to illustrate the extent of its intellectual bankruptcy.

According to proponents of unconditional free immigration, the U.S. *qua* high-wage area would invariably benefit from free immigration; hence, it should enact a policy of open borders, regardless of any existing conditions, i.e., even if the U.S. were ensnarled in protectionism and domestic welfare. Yet surely, such a proposal strikes a reasonable person as fantastic. Assume that the U.S., or better still Switzerland, declared that there would no longer be any border controls, that anyone who could pay the fare might enter the country, and, as a resident then be entitled to every "normal" domestic welfare provision. Can there be any doubt how disastrous such an experiment would turn out in the present world?. The U.S., and Switzerland even faster, would be overrun by millions of third-world immigrants, because life on and off American and Swiss public streets is comfortable compared to life in many areas of the third world. Welfare costs would skyrocket, and the strangled economy disintegrate and collapse, as the subsistence fund—the stock of capital accumulated in and inherited from the past—was plundered. Civilization in the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

U.S. and Switzerland would vanish, just as it once did from Rome and Greece.

Since unconditional free immigration must be regarded as a prescription for national suicide, the typical position among free traders is the alternative of conditional free immigration. According to this view, the U.S. and Switzerland would have to first return to unrestricted free trade and abolish all tax-funded welfare programs, and only then should they open their borders to everyone who wanted to come. In the meantime, while the welfare state is still in place, immigration would have to be made subject to the condition that immigrants are excluded from domestic welfare entitlements.

While the error involved in this view is less obvious and the consequences less dramatic than those associated with the unconditional free immigration, the view is nonetheless erroneous and harmful. To be sure, the immigration pressure on Switzerland and the U.S. would be reduced if this proposal were followed, but it would not disappear. Indeed, with free-trade policies, both foreign and domestic, wage rates within Switzerland and the U.S. may further increase relative to those at other locations (with less enlightened economic policies). Hence, the attraction of both countries might even increase. In any event, some immigration pressure would remain, so some form of immigration policy would have to exist. Do the principles underlying free trade imply that this policy must be one of conditional "free immigration?" They do not. There is no analogy between free trade and free immigration, and restricted trade and restricted immigration. The phenomena of trade and immigration are different in a fundamental respect, and the meaning of "free" and "restricted" in conjunction with both terms is categorically different. People can move and migrate; goods and services, of themselves, cannot.

Put differently, while someone can migrate from one place to another without anyone else wanting him to do so, goods and services cannot be shipped from place to place unless both sender and receiver agree. Trivial as this distinction may appear, it has momentous consequences. For *free* in conjunction with trade then means trade by invitation of private households and firms only; and *restricted* trade does not mean protection of households and firms from uninvited goods or services, but invasion and abrogation of the right of private households and firms to extend or deny invitations to their own property. In contrast, *free* in conjunction with immigration does not mean immigration by invitation of individual households and firms, but unwanted invasion or forced integration; and *restricted* immigration actually

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

means, or at least can mean, the protection of private households and firms from unwanted invasion and forced integration. Hence, in advocating free trade and restricted immigration, one follows the same principle: requiring an invitation for people as for goods and services.

In contrast, the advocate of free trade and free markets who adopts the (conditional) free immigration position is involved in intellectual inconsistency. Free trade and markets mean that private property owners may receive or send goods from and to other owners without government interference. The government stays inactive vis-à-vis the process of foreign and domestic trade, because a willing (paying) recipient exists for every good or service sent, and hence all locational changes, as the outcome of agreements between sender and receiver, must be deemed mutually beneficial. The government's sole function is that of maintaining the trading process (by protecting citizen and domestic property).

However, with respect to the movement of people, the same government will have to do more in order to fulfill its protective function than merely permit events to take their own course, because people, unlike products, possess a will and can migrate. Accordingly, population movements, unlike product shipments, are not *per se* mutually beneficial events because they are not always —necessarily and invariably—the result of an agreement between a specific receiver and sender. There can be shipments (immigrants) without willing domestic recipients. In this case, immigrants are foreign invaders, and immigration represents an act of invasion. Surely, a government's basic protective function includes the prevention of foreign invasions and the expulsion of foreign invaders. Just as surely then, in order to do so and subject immigrants to the same requirement as imports (of having been invited by domestic residents), this government cannot rightfully allow the kind of free immigration advocated by most free traders. Just imagine again that the U.S. and Switzerland opened their borders to whomever wanted to come—provided only that immigrants be excluded from all welfare entitlements, which would be reserved for U.S. and Swiss citizens. Apart from the sociological problem of thus creating two distinct classes of domestic residents and thus causing severe social tensions, there is also little doubt about the outcome of this experiment in the present world. The result would be less drastic and less immediate than under the scenario of unconditional free immigration, but it too would amount to a massive foreign invasion and ultimately lead to the destruction of American and Swiss civilization. Thus, in order to fulfill its primary function as protector of its citizens and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

their domestic property, a high-wage-area government cannot follow an immigration policy of laissez-passer, but must engage in restrictive measures.

THE ANARCHO-CAPITALIST MODEL

From the recognition that proponents of free trade and markets cannot advocate free immigration without falling into inconsistency and contradiction, and hence, that immigration must —logically—be restricted, it is but a small step to the further recognition of *how* it must be restricted. As a matter of fact, all high-wage-area governments presently restrict immigration in one way or another. Nowhere is immigration "free," unconditionally or conditionally. Yet the restrictions imposed on immigration by the U.S. and by Switzerland, for instance, are quite different. What restrictions *should* then exist? Or, more precisely, what immigration restrictions is a free trader and free marketeer logically compelled to uphold and promote? The guiding principle of a high-wage-area country's immigration policy follows from the insight that immigration, to be free in the same sense as trade is free, must be *invited immigration*. The details follow from the further elucidation and exemplification of the concept of invitation *vs.* invasion and forced integration.

For this purpose, it is necessary to assume first, as a conceptual benchmark, the existence of what political philosophers have described as a private property anarchy, anarcho-capitalism, or ordered anarchy: all land is privately owned, including all streets, rivers, airports, harbors, etc. With respect to some pieces of land, the property title may be unrestricted, that is, the owner is permitted to do with his property whatever he pleases as long as he does not physically damage the property of others. With respect to other territories, the property title may be more or less restricted. As is currently the case in some developments, the owner may be bound by contractual limitations on what he can do with his property (restrictive covenants, voluntary zoning), which might include residential rather than commercial use, no buildings more than four stories high, no sale or rent to unmarried couples, smokers, or Germans, for instance.

Clearly, in this kind of society, there is no such thing as freedom of immigration, or an immigrant's right of way. What does exist is the freedom of independent private property owners to admit or exclude others from their own property in accordance with their own restricted or unrestricted property titles. Admission to some territories might be easy, while to others it might be nearly impossible. Moreover, admission to one party's property

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

does not imply the "freedom to move around," unless other property owners have agreed to such movements. There will be as much immigration or non-immigration, inclusivity or exclusivity, desegregation or segregation, non-discrimination or discrimination as individual owners or owners associations desire.

The reason for citing the model of an anarcho-capitalist society is that by definition no such thing as forced integration (uninvited migration) is possible (permitted) within its framework. Under this scenario, no difference between the physical movement of goods and the migration of people exists. As every product movement reflects an underlying agreement between sender and receiver, so all movements of immigrants into and within an anarcho-capitalist society are the result of an agreement between the immigrant and one or a series of receiving domestic property owners. Hence, even if the anarcho-capitalist model is ultimately rejected—and if for realism's sake the existence of a government and of "public" (in addition to private) goods and property is assumed—it brings into clear relief what a government's immigration policy would have to be, if and insofar as this government derived its legitimacy from the sovereignty of the "people" and was viewed as the outgrowth of an agreement or "social contract" (as is the case with all modern, post-monarchical governments, of course). A "popular" government which assumed as its primary task the protection of its citizen and their property (the production of domestic security) would surely want to preserve, rather than abolish, this no-forced-integration feature of anarcho-capitalism!

In order to realize what this involves, it is necessary to explain how an anarcho-capitalist society is altered by the introduction of a government, and how this affects the immigration problem. Since in an anarcho-capitalist society there is no government, there is no clear-cut distinction between inlanders (domestic citizens) and foreigners. This distinction appears only with the establishment of a government. The territory which a government's power extends over then becomes inland, and everyone residing outside of this territory becomes a foreigner. State borders (and passports), as distinct from private property borders (and titles to property), come into existence, and immigration takes on a new meaning. Immigration becomes immigration by foreigners across state borders, and the decision as to whether or not a person should be admitted no longer rests exclusively with private property owners or associations of such owners but with the government *qua* domestic security producer. Now, if the government excludes a person while there exists a domestic resident

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

who wants to admit this very person onto his property, the result is forced exclusion; and if the government admits a person while there exists no domestic resident who wants to have this person on his property, the result is forced integration.

Moreover, hand in hand with the institution of a government comes the institution of public property and goods, that is, of property and goods owned collectively by all domestic residents and controlled and administered by the government. The larger or smaller the amount of public-government ownership, the greater or lesser will be the potential problem of forced integration. Consider a socialist society like the former Soviet Union or East Germany, for example. All factors of production, including all land and natural resources, are publicly owned. Accordingly, if the government admits an uninvited immigrant, it potentially admits him to any place within the country; for without private land ownership, there exist no limitations on his internal migrations other than those decreed by government. Under socialism, therefore, forced integration can be spread everywhere and thus immensely intensified. (In fact, in the Soviet Union and East Germany, the government could quarter a stranger in someone else's private house or apartment. This measure—and the resulting high-powered forced integration—was justified by the "fact" that all private houses rested on public land.)

Socialist countries will not be high-wage areas, of course, or at least will not remain so for long. Their problem is not immigration but emigration pressure. The Soviet Union and East Germany prohibited emigration and killed people for trying to leave the country. However, the problem of the extension and intensification of forced integration persists outside of socialism. To be sure, in non-socialist countries such as the U.S., Switzerland, and the Federal Republic of Germany, which *are* favorite immigration destinations, a government-admitted immigrant could not move just anywhere. The immigrant's freedom of movement would be severely restricted by the extent of private property, and private land ownership in particular. Yet, by proceeding on public roads, or with public means of transportation, and in staying on public land and in public parks and buildings, an immigrant can potentially cross every domestic resident's path, even move into anyone's immediate neighborhood and practically land on his very doorsteps. The smaller the quantity of public property, the less acute the problem will be. But as long as there exists *any* public property, it cannot be entirely escaped.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CORRECTION AND PREVENTION

A popular government that wants to safeguard its citizens and their domestic property from forced integration and foreign invaders has two methods of doing so, a corrective and a preventive one. The corrective method is designed to ameliorate the effects of forced integration once the event has taken place (and the invaders are there). As indicated, to achieve this goal, the government must reduce the quantity of public property as much as possible. Moreover, whatever the mix of private and public property, the government must uphold—rather than criminalize—any private property owner's right to admit *and* exclude others from his property. If virtually all property is owned privately and the government assists in enforcing private ownership rights, then uninvited immigrants, even if they succeeded in entering the country, would not likely get much farther.

The more completely this corrective measure is carried out (the higher the degree of private ownership), the less there will be a need for protective measures, such as border defense. The cost of protection against foreign invaders along the U.S.–Mexico border, for instance, is comparatively high, because for long stretches no private property on the U.S. side exists. However, even if the cost of border protection can be lowered by means of privatization, it will not disappear as long as there are substantial income and wage differentials between high- and low-wage territories. Hence, in order to fulfill its basic protective function, a high-wage-area government must also be engaged in preventive measures. At all ports of entry and along its borders, the government, as trustee of its citizens, must check all newly arriving persons for an entrance ticket—a valid invitation by a domestic property owner—and everyone not in possession of such a ticket will have to be expelled at his own expense.

Valid invitations are contracts between one or more private domestic recipients, residential or commercial, and the arriving person. *Qua* contractual admission, the inviting party can dispose only of his own private property. Hence, the admission implies negatively—similarly to the scenario of conditional free immigration—that the immigrant is excluded from all publicly funded welfare. Positively, it implies that the receiving party assumes legal responsibility for the actions of his invitee for the duration of his stay. The invitor is held liable to the full extent of his property for any crimes the invitee commits against the person or property of any third party (as parents are held accountable for the crimes of their offspring as long as they are

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

members of the parental household). This obligation, which implies practically speaking that invitors will have to carry liability insurance for all of their guests, ends once the invitee has left the country, or once another domestic property owner has assumed liability for the person in question (by admitting him onto his property).

The invitation may be private (personal) or commercial, temporally limited or unlimited, concerning only housing (accommodation, residency) or housing and employment (but there cannot be a valid contract involving only employment and no housing). In any case, however, as a contractual relationship, every invitation may be revoked or terminated by the invitor; and upon termination, the invitee—whether tourist, visiting businessman, or resident alien—will be required to leave the country (unless another resident citizen enters an invitation-contract with him).

The invitee may lose his legal status as a non-resident or resident alien, who is at all times subject to the potential risk of immediate expulsion, only upon acquiring citizenship. In accordance with the objective of making all immigration (as trade) invited-contractual, the fundamental requirement for citizenship is the acquisition of property ownership, or more precisely the ownership of real estate and residential property.

In contrast, it would be inconsistent with the very idea of invited migration to award citizenship according to the territorial principle, as in the U.S., whereby a child born to a non-resident or resident alien in a host country automatically acquires this country's citizenship. In fact, such a child acquires, as most other high-wage-area governments recognize, the citizenship of his parents. For the host country's government to grant this child citizenship instead involves the non-fulfillment of its basic protective function, and actually amounts to an invasive act perpetrated by the government against its own citizenry. Rather, becoming a citizen means acquiring the right to stay in a country permanently, and a permanent invitation cannot be secured other than by purchasing residential property from a citizen resident. Only by selling real estate to a foreigner does a citizen indicate that he agrees to a guest's permanent stay (and only if the immigrant has purchased and paid for real estate and residential housing in the host country will he assume a permanent interest in his new country's well-being and prosperity). Moreover, finding a citizen willing to sell residential property and being prepared and able to pay for it, although a necessary requirement for the acquisition of citizenship, may not also be sufficient. If and insofar as

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the domestic property in question is subject to restrictive covenants, the hurdles to be taken by a prospective citizen may be significantly higher. In Switzerland, for instance, citizenship may require that the sale of residential property to foreigners be ratified by a majority of or even all directly affected local property owners.

CONCLUSION

Judged by the immigration policy required to protect one's own citizens from foreign invasion and forced integration—and to render all international population movements invited and contractual migrations—the Swiss government does a significantly better job than the United States. It is more difficult to enter Switzerland as an uninvited person or to stay on as an uninvited alien. In particular, it is far more difficult for a foreigner to acquire citizenship, and the legal distinction between resident citizens and resident aliens is more clearly preserved. These differences notwithstanding, the governments of both Switzerland and the U.S. pursue immigration policies that must be deemed far too permissive.

Moreover, the excessive permissiveness of their immigration policies and the resulting exposure of the Swiss and American population to forced integration with foreigners is aggravated by the fact that the extent of public property in both countries (and other high-wage areas) is quite substantial; that tax-funded welfare provisions are high and growing, and foreigners are not excluded; and that contrary to official pronouncements, even the adherence to free-trade policies is anything but perfect. Accordingly, in Switzerland, the U.S., and most other high-wage areas, popular protests against immigration policies have grown increasingly louder.

It has been the purpose of this essay not only to make the case for the privatization of public property, domestic laissez faire, and international free trade, but in particular also for the adoption of a restrictive immigration policy. By demonstrating that free trade is inconsistent with (unconditionally or conditionally) free immigration, and that free trade requires instead that migration be subject to the condition of being invited and contractual, it is our hope to contribute to more enlightened future policies in this area.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Center for Libertarian Studies
Occasional Papers Series

1. Methodology of the Austrian School, Lawrence H. White. A historical study of the development of the subjectivist method of economic analysis. The focal point of Austrian analysis is the purposeful, acting individual, rather than aggregates or other "macro" constructs.

2. The Production of Security, Gustave de Molinari (translated by J. Huston McCulloch). A coherent and logically argued proposal for free-market defense services by a leading 19th-century French laissez-faire economist.

3. Toward a Reconstruction of Utility and Welfare Economics, Murray N. Rothbard. A close critical inspection of the assumptions underlying orthodox welfare economics with a call for a sounder basis upon which to ground policy analysis.

4. The Political Economy of Liberal Corporativism, J.R. Strong, R.A. Childs, Jr., R. Alexander. Historical investigations into the decline of market capitalism and the rise of State capitalism in early 20th-century America.

5. Theory of Classical Liberal "Industrielisme," Augustin Thierry (translated by Mark Weinburg). Observations on individual liberty by a major historian and social analyst of the French Restoration.

6. Why the Futile Crusade? Leonard P. Liggio. A critique of capitalism's preeminent "contradiction"—its alleged dependence on foreign adventurism and exploitation—from the perspective of the American "Old Right," or classical-liberal, position.

7. The Clash of Group Interests and Other Essays, Ludwig von Mises. Explains the process by which market arrangements for social and economic coordination have historically been supplanted by State power and an ultimate reversion to new forms of caste society.

8. The Austrian Theory of the Trade Cycle and Other Essays, Ludwig von Mises, Gottfried Haberler, Murray N. Rothbard, Friedrich A. Hayek. Theoretical analyses of business fluctuations and the effects of inflation. Highlighted are such Austrian concepts as the role of relative prices, faulty expectations, and the misdirection of capital and labor brought on by monetary disturbances.

9. Medical Malpractice: The Case for Contract, Richard Epstein. Observes that recent trends in malpractice law point toward a reversion to forms of law characteristic of a status society. A case is made for putting the doctor-patient relationship on a sounder, contractual basis.

10. Frank S. Meyer: The Fusionist as Libertarian, Murray N. Rothbard. Demonstrates that the conservative political theorist F.S. Meyer was basically a libertarian, and that Meyer's Fusionism breaks down under analysis to either libertarianism or traditional conservatism.

All papers are $4.00 each. The complete set of 10 papers can be purchased for $35.00.

Non-U.S. Please add $1.00 postage for each paper ordered, or $4.00 for the complete set. Please send U.S. Dollars only.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED